

Court of Common Pleas  
Civil Division

***Editor's Note:*** The Board of Judges of Philadelphia County voted on May 15, 2014 to amend all Philadelphia Local Civil Rules to reflect the name change of the Office of the Prothonotary to the "Office of Judicial Records." The forms for the Civil Trial Division are being revised as of the publication date of this edition and will be posted at <http://www.courts.phila.gov/> when finalized. All new forms will be published in the next edition of the Philadelphia County Court Rules.

**Rule \*51** *Citation, Categorization and Effect of Philadelphia Civil Rules.*

- (A) *Citation.* These rules shall be known as the Philadelphia Civil Rules, and may be cited as “Phila. Civ. R. \_\_\_.”
- (B) *Promulgation.* The Philadelphia Civil Rules shall include and be promulgated as follows:
- (1) *Local Rules of Court.* Local Rules of Court are promulgated by the Board of Judges of the Court of Common Pleas. Local Rules of Court may either implement, clarify or tailor statewide procedural rules to Philadelphia situations, in which case the rule will be indicated by an asterisk and numbered to comport with the corresponding state rule; or establish, implement and clarify various requirements and procedures related solely to Philadelphia practice, in which case the rule will be numbered consistent with the substance of the rule.
  - (2) *General Court Regulations.* General Court Regulations are formal instructions from the President Judge or an Administrative Judge of the Court of Common Pleas dealing with administrative procedures or otherwise supplementing and explaining Local Rules of Court or statewide procedural rules.
  - (3) *Administrative Regulations.* Administrative Regulations are instructions from the Court Administrator to all or a part of his staff. Administrative Regulations shall be as specific as possible, and shall, where feasible, explain (a) the reason the instruction is being issued, (b) the changes in current procedures which will be effectuated, and (c) how the new procedure will operate, identifying all parties involved and setting forth their responsibilities.
  - (4) *Bulletins.* Items of information and items of a temporal nature are called Bulletins. Weekly schedules, monthly statistics, temporary assignments, and announcements of all kinds will be classified as Bulletins. Bulletins will be issued by the President Judge, an Administrative Judge, or the Court Administrator.
- (C) *Construction and Effect.* All Philadelphia Civil Rules shall be construed liberally to insure that no one is denied justice. Whenever possible, such rules shall be construed as consistent with statewide procedural rules and with each other. Where conflicts arise, the order of priority shall be:
- (1) The Pennsylvania Rules of Civil Procedure;
  - (2) Local Rules of Court;
  - (3) General Court Regulations;
  - (4) Administrative Regulations; and
  - (5) Bulletins.
- (D) *Publication.* Local Rules of Court, General Court Regulations and Administrative Regulations which govern or effect procedures to be followed by the Bar shall be

given rule numbers at the time of their promulgation. Each Bulletin which governs or affects such procedures shall either (a) be given a rule number, in which event it will remain in effect until rescinded, (b) specify a period of time not longer than 60 days during which it will remain in effect or (c) be published in *The Legal Intelligencer* at least once every 60 days, or automatically cease to remain in effect. All rules shall be made available by the Office of the President Judge for publication and distribution. Publication and distribution of new numbered rules shall occur as soon as practicable following adoption of those rules by the Board of Judges. Rules concerning wholly internal procedures need not be numbered or published. A complete copy of all currently effective Philadelphia Civil Rules shall be maintained and made available for public inspection at the Office of the Civil Administration.

- (E) Cataloguing, distribution and maintenance of files of all local rules, administrative and general court regulations and all procedural orders and directives are the responsibility of the Office of the President Judge.
- (F) *Effective Date.* All numbered rules shall become effective on the date specified in the new rule, following publication in *The Legal Intelligencer*.

*Note:* Former Rule 1; originally General Court Regulation 71-1, adopted by The Board of Judges, July 8, 1971; Bulletin 72-159, July 6, 1972; further amended November 20, 1986, effective February 1, 1987.

Paragraph (D) has been amended to require numbering in accordance with Pa.R.C.P. 239 and to ensure that regulations will be included in the published rules.

*Editor’s Note:* Former Rule 1, amended November 20, 1986, effective February 1, 1987. Existing rule amended May 24, 2000, effective 30 days after publication in the *Pennsylvania Bulletin*.

**Rule \*76** *Attorneys as Notaries Public.*

Attorneys holding commissions as notaries public, or who are otherwise authorized to administer oaths, shall not take or attest the affidavit of any party represented by them, and all affidavits taken in violation of this rule will be treated as null.

*Note:* Former Rule 30; originally Star Rule \*205.

**Rule \*105** *Approval of Sureties.*

- (A) Sureties required at the commencement of actions shall be approved by the Office of Judicial Records subject to review by the Court. Two auditors shall be appointed each year, who at least once a year and more often, if in the opinion of the auditors the same be necessary, shall make a separate written report concerning the advisability of accepting each corporation as surety. This report of the auditors shall be based upon a thorough accounting study and analysis of the financial statements which the corporation shall furnish to the auditors. If in the opinion of the auditors an examination of any company at its home office is required, the auditors shall file

a motion with the Court in which the application of the corporation was filed setting forth the reasons for the making of such examination, and requesting the Court's approval. A copy of such motion shall served upon the corporation, which shall have the right to file an answer to the motion of the auditors, and otherwise to be heard. No examination shall be made by the auditors at the home office of the applicant surety company without approval of the Court in which the application for approval was filed.

- (B) Qualifications of sureties for bail shall be governed by Rule 4007 of the Pennsylvania Rules of Criminal Procedure.

*Note:* Former Rule 46; originally Star Rules \*918, \*919 and \*920.

*Editor's Note:* Amended May 20, 2004, effective July 26, 2004.

### **Rule \*201      *Stipulations.***

- (A) Judicial approval of stipulations of counsel is not required except for stipulations relating to the following matters:

- (1) The settlement, discontinuance and ending of an action as to less than all defendants;
- (2) The return of money deposited with the Court;
- (3) The transfer of an action to another Court or jurisdiction;
- (4) Late joinder of additional defendants; and
- (5) Waiver of the requirements of a local rule.

- (B) Stipulations not requiring judicial approval shall be filed with the Office of Judicial Records. Service shall be made by the filing party upon all counsel and unrepresented parties.

- (C) Stipulations requiring Court approval in cases not assigned to the Non Jury Program, the Arbitration Program or the Arbitration Appeal Program shall be presented for approval to the Judicial Team Leader for that Program to which the case has been assigned. Stipulations requiring Court approval in the Non Jury, Arbitration or the Arbitration Appeal Programs shall be presented for approval to the Motion Court Judge. All Stipulations requiring Court approval shall be filed with the Office of Judicial Records and will be assigned to the appropriate Judge for approval.

*Note:* The amendments to this rule are made in contemplation of implementation of Electronic Filing as authorized by Pa.R.C.P. No. 205.4 and Philadelphia Civil Rule \*205.4; the amendments will thus become effective on the implementation date announced by the Administrative Judge of the Trial Division as provided in Philadelphia Civil Rule \*205.4(a)(1)(ii). Until that date, the parties must continue to include with their legal papers the required addressed stamped envelopes. The Court will not accept the pleadings or legal papers without the required envelopes.

*Editor's Note:* Amended May 24, 2000, effective 30 days after publication in the Pennsylvania Bulletin; amended November 15, 2007, effective on the date established in Philadelphia Civil Rule \*205.4(a)(1)(ii).

### **Rule \*204.1      *Pleadings and Other Legal Papers. Format.***

- (a) In order to accommodate the filing of documents in an electronic format as authorized by Philadelphia Civil Rule \*205.4, all "legal papers," as defined in Pa.R.C.P. No. 205.4(a)(2), must conform to the following requirements:
- (1) All files must be no larger than 5MB each. If an electronic file exceeds this limit, then it must be split into multiple files;
  - (2) All PDF pages must be 8 and 1/2 inches in size exactly. Other file sizes may be incompatible with electronic filing;
  - (3) No security, passwords or other restrictions may be placed on electronic files. If an electronic file contains passwords or other security devices, it will be rejected; and
  - (4) After an electronic file is created, it must not be modified in any way. If an electronic filing is modified, it may be incompatible with the electronic filing system and will be rejected.
- (b) In order to accommodate the scanning of legal papers presented in hard-copy format and saving in an electronic format as provided by Philadelphia Civil Rule \*205.4(b)(1), in addition to the requirements of Pa.R.C.P. No. 204.1, all hard-copy "legal papers" must conform to the following requirements:
- (1) all legal papers must be printed on only one side of the paper;
  - (2) all orders must contain a 3-inch space from the top of the page for all electronic court stampings, filing notices, etc.;
  - (3) legal papers must not be stapled or permanently bound, but must be secured by binder clips or other fasteners which do not puncture or otherwise interfere with scanning;
  - (4) bar codes on any page of the legal paper interfere with scanning and must therefore be crossed out or otherwise redacted; and
  - (5) to avoid scanning errors, Exhibit separator pages must be used instead of Exhibit tabs.

*Explanatory Note:* The source of this rule is Administrative Docket No. 01-2008, issued by Administrative Judge D. Webster Keogh on July 16, 2008.

Adopted by the Board of Judges on November 20, 2008; effective on January 5, 2009.

*Editor's Note:* Adopted December 1, 2008, effective January 5, 2009. Amended May 15, 2014, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

### **Rule \*205.2(a)      *Pleadings. (Rescinded)***

*Note:* Rule rescinded. Subject matter contained in Philadelphia Civil Rule \*205.2(a)(5) and (6) is adopted as Philadelphia Civil Rule \*1018. Subject matter contained in Philadelphia Civil Rule \*205.2(a)(8) is adopted as Philadelphia Civil Rule \*1021. All other provisions contained in this rule

are covered by Pennsylvania Rules of Civil Procedure and are thus unnecessary.

**Editor's Note:** Rescinded November 15, 2007, effective January 7, 2008.

**Rule \*205.2(b) Cover Sheet.**

- (1) *Initial Pleading.* Any document commencing an action must have attached to it a Civil Cover Sheet, in a form provided by the Office of Judicial Records as approved and modified from time to time by the Administrative Judge or his/her designee. A Civil Cover Sheet must also be filed together with Objections to Sheriff's Determination of Title filed pursuant to Pa.R.C.P. 3201, et seq.
- (i) *Failure to Attach Cover Sheet.* If the Civil Cover Sheet is not attached as required, the Office of Judicial Records shall accept the document for filing if it otherwise complies with all applicable state rules; provided, however, that the Office of Judicial Records shall endorse on the original pleading, and all file-stamped copies, the following: "The filing party shall submit a Civil Cover Sheet as required by Phila. Civ.R. \*205.2(b) within 20 days or shall suffer appropriate sanctions." The file-stamped copies shall be returned to the filing party for service.
- (ii) *Sanctions.* In the event the Civil Cover Sheet is not submitted as required, the Court may impose any authorized sanctions including non pros against the filing party. The Court may also impose any appropriate sanctions if the information set forth in the Civil Cover Sheet is determined to be false or misleading.

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- (2) *Petitions or Motions.* A Petition/Motion Cover Sheet, in a form provided by the Court as approved and modified from time to time by the Administrative Judge or his/her designee, must be attached to all Petitions, Motions, Answers and Responses, except for Discovery Motions and Motions for Extraordinary Relief, and Responses thereto.

**See Forms Index**

**Editor's Note:** Former Rule 205.2 rescinded and replaced May 20, 2004, effective July 26, 2004.

**Rule \*205.4 Electronic Filing of Legal Papers Filed in the Civil Trial Division.**

- (a) Commencing at 9:00 AM on January 5, 2009, parties shall electronically file all "legal papers," as defined in Pa.R.C.P. No. 205.4(a)(2), with the Office of Judicial Records through the Civil Trial Division's Electronic

Filing System as more specifically provided in Pennsylvania Rule of Civil Procedure No. 205.4 and Philadelphia Civil Rule \*205.4.

**Explanatory Note:** The term "legal paper" as defined in Pa.R.C.P. No. 205.4(a)(2) encompasses all pleadings and other papers filed with the Office of Judicial Records—even if the legal papers are not adversarial in nature and do not require the non-filing party or parties to respond (such as Notices of Tax Liens).

**Note:** Electronic Filing will be implemented in 2008; however, the exact date is not known at this time. The Administrative Judge of the Trial Division will announce the implementation dates of discretionary and mandatory electronic filing by order issued as required by Pa.R.C.P. No. 239.

- (b) (1) *Authorized Electronic Format of Legal Papers Electronically Filed.* All legal papers shall be filed in a portable document format ("pdf"). As authorized by Pa.R.C.P. No. 205.4 (b)(1), in the event any legal paper or exhibit is submitted to the Office of Judicial Records in a hard-copy format, the Office of Judicial Records shall convert and maintain such legal paper or exhibit to a portable document format, and the Office of Judicial Records shall return the hard-copy legal paper or exhibit to the filing party for retention as required by Pa.R.C.P. No. 205.4(b)(5).
- (c) (2) *Website. Access to the Website.*
- (i) *Website.* All legal papers shall be filed electronically through the Civil Trial Division's Electronic Filing System ("Electronic Filing System") which shall be accessible through the website of the First Judicial District of Pennsylvania, <http://courts.phila.gov>, or at such other website as may be designated from time to time.
- (ii) *Access to the Website.* To obtain access to the Electronic Filing System, counsel and any unrepresented party must apply for and receive a User Name, Password, and Personal Identification Number ("PIN").
- (d) *Payment of Filing Fees.*
- (1) The Office of Judicial Records will accept for payment of all filing fees cash, checks and the following credit and debit cards: American Express, Discover, MasterCard, and Visa.
- (2) The Office of Judicial Records will not accept advance deposit on account of future filing fees due to the difficulty in monitoring and accounting for such advance deposits.
- (3) *Electronic Filing Fees and Costs.* As authorized by Act 81 of 2006, the Office of Judicial Records shall collect an electronic filing fee for each legal paper or exhibit filed as established by the Office of Judicial Records with the approval of the President Judge of the Court of Common Pleas. In addition to such electronic filing fee, commencing on January 5, 2009, the Office of Judicial Records is authorized to charge the sum of \$1.00 per page for each page of a legal paper or exhibit which is filed in a

hard copy format and which must be converted by the Office of Judicial Records to a portable document format. All fees collected pursuant to this rule shall be set aside by the Office of Judicial Records and remitted monthly to the First Judicial District's Procurement Unit. All such fees and costs collected will be used for the implementation and maintenance of the electronic filing system and additional development, enhancements and training.

(f) *Local Procedures.* As authorized by Pa.R.C.P. No. 205.4 (f), the following administrative procedures are adopted:

(1) *Signatures on Pleadings, Verifications, Documents and Other Legal Papers.* The electronic filing of legal papers utilizing the issued User Name, Password and PIN issued as provided by this rule and Pa.R.C.P. No. 205.4, constitutes the party's signature on electronic documents as provided by Pa.R.C.P. No. 1023.1 and, if the filing party is an attorney, constitutes a certification of authorization to file it as provided in Pa.R.C.P. No. 205.1. Additionally, the following provisions apply:

(i) *Filing Party.* The legal paper must include a signature block, and the name of the filer under whose User Name, Password and PIN the legal paper is submitted must be preceded by a "/s/" and typed in the space where the signature would otherwise appear.

(ii) *Client Verifications and Documents Executed by Clients or Other Persons.* The Verification required by Pa.R.C.P. Nos. 206.1 and 1024 and the signature page(s) of any document or legal paper executed by any party other than the filing party must be scanned and attached to the electronic filing in a portable document format at the time the legal paper is submitted.

(iii) Documents requiring signatures of more than one party must be scanned and attached to the electronic filing in a portable document format at the time the legal paper is submitted.

**Note:** This subsection is designed to address issues which may arise regarding signatures on legal papers and documents. A filer's use of the User Name, Password and PIN issued through the EFS is the filer's "electronic signature." However, often, legal papers require that verifications be executed by non-filers and deficiencies in content and execution could be subject to preliminary objections. Moreover, many legal papers or documents require multiple signatures.

In order to avoid prejudicial delay, this section requires that the filing party scan such legal papers, documents or signature pages and attach them to the electronic filing at the time of submission.

(2) Upon receipt of the legal paper, the Office of Judicial Records shall provide the filing party with an acknowledgment, which includes the date and time the legal paper was received by the Electronic Filing System.

(3) After review of the legal paper, the Office of Judicial Records shall provide the filing party with e-mail notification, or notification on the Electronic Filing System, that the legal paper has been accept-

ed for filing ("filed") or not accepted or refused for filing.

(4) If a legal paper is accepted, it shall be deemed to have been filed as of the date and time it was received by the Electronic Filing System; provided, however, that if a legal paper is submitted without the requisite filing fee, the legal paper shall be deemed to have been accepted for filing as of the date payment was received. The Office of Judicial Records is authorized to refuse for filing a legal paper submitted without the requisite payment. If the pleading or legal paper is accepted for filing, it will be electronically served as authorized by Pa.R.C.P. No. 205.4(g)(1)(ii) and service shall be effectuated as provided in Pa.R.C.P. No. 205.4(g)(2)(ii).

**Note:** As required by Pa.R.C.P. No. 205.4(c)(1), access to the Electronic Filing System shall be available at all times, except for required maintenance. However, legal papers can only be reviewed during normal court hours. Therefore, parties are cautioned to file required legal papers in advance of any filing deadline to enable timely correction and re-submission in the event a legal paper is not accepted or is refused for filing. The Office of Judicial Records may refuse for filing any legal paper submitted without the required filing fees as provided by 42 Pa.C.S. §1725(c)(2)(xix), or, at the Office of Judicial Records discretion, may authorize the filer to submit the required filing fees within a stated time period after which the Office of Judicial Records may refuse the legal paper for filing if payment is not received.

(5) If a legal paper is refused for filing, the Office of Judicial Records shall specify the reason. Subject to the provisions of subsection Rule 205.4 (e)(1)(i), a legal paper refused for filing shall be deemed as not having been filed.

(6) Neither the Court nor the Office of Judicial Records are required to maintain a hard copy of any legal paper or exhibit, notice, or order filed or maintained electronically under this rule.

(7) If a legal paper is electronically filed, the Civil Electronic Filing System will automatically serve all persons who have previously submitted electronic filings in the same case, pursuant to Philadelphia Civil Rule \*205.4 and Pa.R.C.P. No. 205.4(g), but the filing party must serve all others as required by rules of court. All legal papers filed in a hard-copy format must be served by the filing party as required by rules of court.

**Note:** This rule is adopted as required by Pa.R.C.P. No. 239.9.

The provisions which govern the Electronic Filing of Mental Health Applications and Petitions are set forth in Philadelphia Civil Rule 7109.1, which was adopted on November 16, 2001 and which became effective on January 1, 2002.

**Editor's Note:** Adopted November 15, 2007, effective January 7, 2008; amended December 1, 2008, effective January 5, 2009.

#### **Rule \*206.1(a) Designation of Petitions.**

(1) In addition to petitions to open default judgment and petitions to open judgment of non pros, the following applications are designated "petitions" and are governed by the procedures set forth in Pa.R.C.P. 206.1 et seq.:

(i) Petition to Appoint Arbitrator;

- (ii) Petition to Appoint A Receiver;
  - (iii) Petition to Compel Arbitration;
  - (iv) Petition to Confirm Arbitration Award;
  - (v) Petition to Confirm Settlement;
  - (vi) Petition for Contempt;
  - (vii) Petition to Set Aside Arbitration Award;
  - (viii) Statutory Petitions; and
  - (ix) Petition to Appoint a Sequesteror.
- (2) Emergency petitions shall be assigned to the appropriate judge immediately upon submission to the Motion Clerk. A Rule to Show Cause Order will not be issued as of course by the Motion Clerk. Upon review of the petition, the assigned judge will issue an appropriate order setting forth the manner in which the petition will be answered, heard and disposed.
- (3) The Administrative Judge of the Trial Division, or his/her designee, may from time to time update the list of Applications which are designated “petitions” and which are governed by the procedures set forth in Pa.R.C.P. 206.1. The updated list shall become effective thirty (30) days after publication on the website of the Administrative Office of Pennsylvania Courts.

*Editor’s Note:* Former Rule 206.1 rescinded and replaced May 20, 2004, effective July 26, 2004. Amended May 15, 2014, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

**Rule \*206.3**      ***Rule \*206.3 Petitions for Approval of Settlement of No-Fault Benefits.***

*Editor’s Note:* Rescinded May 24, 2000, effective 30 days after publication in the *Pennsylvania Bulletin*.

**Rule \*206.4(c)**      ***Rule \*206.4(c). Rule to Show Cause. Issuance as of Course. Form of Order. Stay.***

The Rule to Show cause process set forth in Pa.R.C.P. 206.6 is hereby adopted for all petitions filed pursuant to Pa.R.C.P. 206.1 et seq. Upon the filing of a petition, a rule to show cause shall be issued as of course by the Motion Court clerk on behalf of the Court. The form of rule to show cause order shall be substantially as set forth hereunder. To obtain a stay of proceedings, the filing party shall specifically set forth in the petition the reasons why the stay is required, and shall further indicate on the Petition/Motion Cover Sheet that a stay has been requested. The Court may schedule a conference on the request for stay, or grant or deny the stay ex parte.

***See Forms Index***

*Editor’s Note:* Adopted May 20, 2004, effective July 26, 2004.

**Rule \*208.2(c)**      ***Briefing Requirement.***

All Motions, except for Motions for Extraordinary Relief, shall be accompanied by a Brief or Memorandum of Law in the form set forth in Phila.Civ.R. \*210.

*Editor’s Note:* Adopted May 20, 2004, effective July 26, 2004.

**Rule \*208.2(d)**      ***Certification of Uncontested Status.***

*Note:* This court has not promulgated a local rule imposing a certification requirement for uncontested motions.

*Editor’s Note:* Adopted May 20, 2004, effective July 26, 2004.

**Rule \*208.2(e).**      ***Certification of Good Faith Attempt to Amicably Resolve Discovery Motions.***

On the day the Discovery Motion is argued, the filing party shall present to the Discovery Judge an Attorney Certification of Good Faith, substantially in the form attached hereto, certifying that the filing party has conferred with all other parties in an attempt to resolve the discovery disputes at issue. In the event the moving party was unable to confer with any party, the attempts made to confer with that party shall be specifically set forth.

***See Forms Index***

*Editor’s Note:* Adopted May 20, 2004, effective July 26, 2004.

**Rule \*208.3(a)**      ***Motions Initially Considered Without Written Response or Briefs.***

- (1) *Emergency Motions.* “Emergency Motions” shall be initially considered without written Response or Briefs. Upon filing, the Motion Clerk shall assign the Emergency Motion to the appropriate judge who, upon review of the motion, will issue an order providing any applicable relief, and shall further set forth how the motion will be answered, heard and disposed;
- (2) *Motions for Alternative Service.* Motions for Alternative Service shall be forwarded to the appropriate judge immediately upon filing. The filing party must immediately serve a copy of the petition on all counsel of record and unrepresented parties;
- (3) *Motions for Reconsideration.* Motions for Reconsideration shall be forwarded to the appropriate judge immediately upon filing, and the filing party must serve a copy of the motion as provided in subsection (b)(3)(C). In appropriate cases, the assigned judge may enter a preliminary order vacating the order in question pending receipt of the response to the motion.
- (4) *Discovery Motions.*
  - (A) *Scheduling Requirements.* All Discovery Motions, except in designated Mass Tort cases, shall be presented to, argued before and determined by the appropriate Judge of Discovery for the particular program involved. The moving party shall file or fax a Discovery Argument Request Form (substantially in the form attached hereto) with the Discovery Clerk (Room 287 City Hall) setting forth the following information: the program to which the case is assigned; the next event and the date of that event (if the case is in the Arbitration Program, the

arbitration hearing date must be provided), the Court Term and Number, and Caption of the case. The requisite filing fee in the form of a check made payable to the Office of Judicial Records or credit card information must be included. Upon receipt of the requisite filing fee and a fully completed Discovery Argument Request Form, the Discovery Clerk shall assign the Discovery Motion for argument. The filing party retains the original Motion and proposed order for submission to the Court on the argument date.

- (B) *Service Requirements.* The moving party shall immediately serve a copy of the Discovery Motion and proposed order (which shall contain no reference to the attorney proposing same), together with a Notice of Presentation and Certificate of Service (substantially in the form attached hereto) on all counsel of record and unrepresented parties as required by Pa.R.C.P. 440. Except in cases of emergency or waiver by consent of all parties, at least ten (10) days' prior written notice shall be required.
- (C) *Argument Date.* On the argument date, the filing party shall hand to the Discovery Judge the following items: the original Discovery Motion and proposed order (which shall contain no reference to the attorney proposing same), Notice of Presentation, and the Attorney Certification of Good Faith required by Phila.Civ.R. \*208.2(e). Should all parties fail to appear for the argument, the court will deem the Discovery Motion moot. The Motion may not be rescheduled but a new Motion may be scheduled for argument as provided herein. Should all parties other than the moving party fail to appear, the Court will deem the Motion uncontested and will enter an appropriate order. Should the moving party fail to appear but one or more responding party appears pursuant to a Notice of Presentation served by the moving party, the court shall dismiss the Motion and may, upon the later filing of a motion for sanctions, enter monetary sanctions against the moving party and in favor of the party who appeared.
- (D) *Response Requirement.* Any party opposing the Discovery Motion must respond, orally or in writing, on the argument date. Any party not opposing a discovery motion need not respond or appear for the argument.
- (E) *Disposition of Discovery Motion.* On the argument date, the Discovery Judge shall:
- (i) enter appropriate orders concerning uncontested motions;
  - (ii) entertain argument on contested motions and, if no issues of fact are raised, enter an appropriate order; or
  - (iii) enter an appropriate order providing the procedure the parties are to follow to develop the

record concerning any fact issue raised by the Discovery Motion or Response.

- (F) *Notice of Entry of Order.* If the decision of the Court is issued immediately after the argument the party presenting the motion shall send a copy of the order to each attorney of record and unrepresented party who was not present on the argument date. The court shall send to each attorney of record and unrepresented party a copy of any order entered on any Discovery Motion held under advisement at the conclusion of the argument.

*Editor's Note:* Amended March 9, 2005, filed for public inspection April 1, 2005; adopted May 20, 2004, effective July 26, 2004.

**Rule \*208.3(b) *Motions Considered After Response Period. Briefs.***

- (1) *Applicability.* This rule governs the filing of all motions except the following:
- (A) All matters specifically excepted in Pa.R.C.P. 208.1(b);
  - (B) Assignment to an individual judge. (See Philadelphia Civil Rule \*215);
  - (C) Advancement on the trial list. (See Philadelphia Civil Rule \*215);
  - (D) Arbitration applications. (See Philadelphia Civil Rule 1303.1.)
  - (E) Motion for approval of settlements where a minor or incapacitated person have an interest. (See Philadelphia Civil Rule\*2039.1.)
  - (F) Motion for allowance in minors' cases. (See Philadelphia Civil Rule \*2039.2.)
  - (G) Motion for approval of settlements in wrongful death cases. (See Philadelphia Civil Rule \*2206.)
  - (H) Motion for Extraordinary Relief (See Trial Division General Court Regulation No. 95-1).
- (2) *Non-Discovery Motions.*
- (A) *Filing Requirements.* All motions other than discovery motions shall be filed with the Office of Judicial Records and the requisite fee paid, and shall thereafter be immediately submitted to the Motion Clerk. All Motions shall be accompanied by the following items in the following order:
    - (i) A completed Petition/Motion Cover Sheet as provided in Phila.Civ.R. \*205.2(b)(2);
    - (ii) A proposed order, which shall contain no reference to the attorney proposing same;
    - (iii) A brief or memorandum of law as required by Phila.Civ.R. \*210;
  - (B) *Control Number. Response Date.* Other than as provided in Phila.Civ.R. \*208.3(a) and except for Summary Judgment Motions (which have a thirty (30) day response period, all Motions have a twenty (20) day response period. Upon filing, the Motion Clerk shall enter on the Cover Sheet a unique

Control Number which must be used on all Responses, and shall enter the “Response Date” on or before which all Responses must be filed by any party.

- (C) *Service Requirements.* The moving party shall immediately serve conformed copies of all documents filed with the Motion Clerk on all counsel of record and unrepresented parties, as required by Pa.R.C.P. 440.
- (D) *Response Requirements.* Any party opposing the motion, shall file the following documents with the Motion Court on or before the Response Date:
- (i) A completed Cover Sheet as set forth in Phila. Civ.R. \*205.2(b)(2);
  - (ii) A proposed order, which shall contain no reference to the attorney proposing same;
  - (iii) The Response to the motion; and
  - (iv) A brief or memorandum of law as provided in Phila.Civ.R. \*210.
- (E) *Attachments.* All Motions shall include copies of all documents or items necessary or relevant to the disposition of the issues. This shall include the complaint, answer, and reply to new matter. All such documents or items shall be included or attached and marked as exhibits separately. The Court may decide any matter against a party who fails to attach to the filing those items sufficient to enable the Court to determine the matter.
- (F) *Disputed Issues of Fact.* Disputed issues of fact shall be determined as the Court may provide pursuant to Pa.R.C.P. 208.4(b).
- (G) *Deadline for Filing Arbitration Motions.* Motions shall not be accepted by the Motion Clerk in cases where an arbitration hearing is scheduled to be held within forty-five (45) days.

***See Forms Index***

**Editor’s Note:** Adopted May 20, 2004, effective July 26, 2004; amended March 9, 2005, filed for public inspection April 1, 2005; adopted November 15, 2007, effective on the date established in Philadelphia Civil Rule \*205.4(a)(1)(ii).

**Note:** Adopted by the Board of Judges at the September 23, 2004 Board of Judges’ Meeting.

**Note:** The amendments to this rule are made in contemplation of implementation of Electronic Filing as authorized by Pa.R.C.P. No. 205.4 and Philadelphia Civil Rule \*205.4; the amendments will thus become effective on the implementation date announced by the Administrative Judge of the Trial Division as provided in Philadelphia Civil Rule \*205.4(a)(1)(ii). Until that date, the parties must continue to include with their legal papers the required addressed stamped envelopes. The Court will not accept the pleadings or legal papers without the required envelopes.

**Rule \*209      *Evidentiary Hearings on Motions.***

**Editor’s Note:** Rescinded May 24, 2000, effective 30 days after publication in the *Pennsylvania Bulletin*.

**Rule \*210      *Brief.***

Except for Motions for Extraordinary Relief, all Petitions and Motions shall be accompanied by a brief or memorandum of law. Briefs or memoranda of law shall be typewritten, printed or otherwise duplicated, and endorsed with the name of the case, the court term and number, and the name, address, and electronic mail address of the attorney or the party if not represented by an attorney. Briefs and memoranda of law shall contain concise and summary statements, separately and distinctly titled, of the following items in the order listed:

1. Matter before the Court: State the particular pleading (motion, petition, objection, exception, application, etc.) before the court for disposition, and the particular relief requested therein.
2. Statement of question(s) involved: State the issue(s) in question form containing factual context sufficient to present the precise matter to be decided by the Court, each susceptible of a yes or no answer, each followed by the answer desired or advocated.
3. Facts: State the operative facts.
4. Argument: State the reason(s) why the court should answer the questions involved as proposed, including citation of the authorities relied on. An authority shall not be cited for general reference but in all cases shall be immediately preceded or followed by its relevant holding or particular proposition for which it stands.
5. Relief: State the specific action(s) requested of the court.

**Editor’s Note:** Adopted May 20, 2004, effective July 26, 2004; amended November 15, 2007, effective January 7, 2008.

**Rule \*212.1      *Filing Pre-trial Statements.***

- (A) Rescinded.
- (B) As authorized by Pa.R.Civ.P. No. 212.1(c), pre-trial statements shall be filed as required in a case’s applicable Program Case Management Order.

**Editor’s Note:** Former Rule 206; adopted by Board of Judges, originally Star Rule \*212, adopted November 15, 1978, effective immediately; amended by General Court Regulation 80-11, effective July 1, 1980; further amended by General Court Regulation 83-4, effective December 5, 1983. Amended May 24, 2000, effective 30 days after publication in the *Pennsylvania Bulletin*; amended May 20, 2010, effective immediately.

**Rule \*212.2      *(Rescinded)***

**Editor’s Note:** Attached Itemization of Costs amended by GCR 96-2, July 22, 1996. Amended March 3, 2000, effective 30 days after publication in the *Pennsylvania Bulletin*; rescinded February 28, 2017.

**Rule \*212.3      *Pre-Trial and Settlement Conferences.***

- (A) The court, in its Program Case Management Orders scheduling pre-trial or settlement conferences pursuant

to Pa.R.Civ.P. No. 212.3, may order anyone with a financial interest in the outcome of a case to be personally present at the pre-trial or settlement conference. Failure of anyone with a financial interest in the outcome of a case to appear may result in the imposition of sanctions against such party, or other entity. The court, upon appropriate request of counsel, may for good cause permit a party or representative to appear by telephone rather than in person.

- (B) In non-jury cases, the Trial Judge shall not enter into settlement negotiations without the consent of the parties and may refuse to enter into settlement negotiations even if the parties consent to such participation. In such a case, if the parties wish to pursue settlement negotiations with a judge, arrangements may be made to find a judge agreeable to all parties to serve as a settlement conference judge.
- (C) From time to time, a judge may recommend a settlement amount, and a party may make a settlement demand or offer. Any settlement amount, demand or offer made shall be communicated forthwith to the client by his, her or its counsel.

**Explanatory Note:** Former Philadelphia Civil Rule \*229.1 titled “Settlement Recommendations, Demands and Offers” has been added in its entirety to this rule as Subsection (C).

**Note:** Former Rule 171; originally Star Rule \*229A, adopted November 15, 1978, effective immediately; amended May 20, 2010, effective immediately; amended December 7, 2010, effective 30 days after publication in the *Pennsylvania Bulletin*.

**Rule \*212.4**      **Mandatory Pretrial Evaluation and Resolution Conference Program.**

**Editor’s Note:** Rescinded May 24, 2000, effective 30 days after publication in the *Pennsylvania Bulletin*.

**Rule \*215**      **Assignment of Cases in the Trial Division.**

- A. All cases filed in the Trial Division of the Court of Common Pleas shall be listed for trial in accordance with those management procedures in effect for the program to which a case is assigned.
  - (1) *Arbitration Cases.* All cases which when filed are subject to compulsory arbitration under Philadelphia Civil Rule \*1301 shall be assigned a hearing date and time upon commencement on the face of the initial filing.
  - (2) *Major Jury Cases.* All jury cases, other than Arbitration Appeals and Mass Tort matters, shall be listed for trial by the Judicial Team Leader for that Program to which a given case is assigned in accordance with the pertinent Case Management Order. Protracted and complex cases will be listed for dates certain. Those cases classified standard and expedited typically will be assigned to a trial pool for a given pool month within the appropriate program. The pool months begin on the first Monday of each month.

Whether a given case is assigned a date certain or a pool month date is within the sound discretion of the Program Team Leader (or his or her designee).

- (3) *Non Jury Cases.* All Non Jury cases will be designated as either Commerce Program or Non Jury Program cases. Commerce Program cases will be listed for trial at a status conference by the Supervising Judge of the non Jury Program, located at the Complex Litigation Center.
- (4) *Mass Tort Cases.* All Mass Tort cases shall be listed for trial by the Supervising Judge of the Mass Tort Program, located at the Complex Litigation Center.
- (5) *Arbitration Appeal Cases.* All Arbitration Appeal cases shall be listed for trial by the Supervising Judge at the Complex Litigation Center in a monthly trial pool in accordance with a Case Management Order. The pool month begins on the first Monday of each month.

**B. Jury Trial Requests.**

- (1) Upon commencement of an action, the plaintiff shall pay the non jury listing fee, or if a jury trial is initially demanded, the jury listing fee.
- (2) Thereafter, a jury trial may be demanded and perfected in accordance with Philadelphia Civil Rule \*1007.1.
- (3) Payment of a jury fee will determine the case program assignment, except in those cases seeking equitable relief which shall be in either the Commerce Program or the Non Jury Program.

**Note:** Amended May 24, 2000, effective July 9, 2000. Amended February 28, 2019, effective \_\_\_\_, 2019.

**Comment:** This \*Rule has been completely rewritten to comport with the principles of differentiated case management and the assignment of cases by program. Counsel are advised to consult, where appropriate, the following General Court Regulations and Administrative Orders:

- 1. Trial Division General Court Regulation No. 94-2. (Procedure and Criteria for Advanced Trial Listings pursuant to Pa.R.C.P. 214.)
- 2. General Court Regulation No. 95-2. (Day Forward Program. Procedure for Disposition of Major Jury Cases Filed on and after January 2, 1996.)
- 3. Administrative Docket No. 01 of 1998. (Protocol for Trial Pools in the Day Backward and the Day Forward Programs.)

**Editor’s Note:** Amended May 24, 2000, effective 30 days after publication in the *Pennsylvania Bulletin*. This rule may be impacted by the following: Administrative Docket No. 01 of 1999, Administrative Docket No. 02 of 2003, General Court Regulation 95-2, Administrative Docket No. 01 of 1998, Administrative Docket No. 02 of 1993, Administrative Docket No. 04 of 2005, Administrative Docket No. 05 of 2005, General Court Regulation No. 2012-01, General Court Regulation No. 2012-03, and General Court Regulation No. 2013-01. Amended February 28, 2019, Published in the *Pennsylvania Bulletin* no later than 30 days.

**Rule \*216.1**      **Continuances—Physical Witnesses.**

- (A) The lawyer has an obligation to notify a physician as far in advance of trial as is reasonable and attempt to

secure times when the physician will be available to testify.

- (B) The lawyer has an obligation to keep the physician apprised of any change in trial date or times, or of settlement of the case.
- (C) A minimum of 48 hours notice of the appearance of the physician shall be given to the physician, if possible.
- (D) After a physician has been subpoenaed in accordance with the statute and the physician fails to appear, the Trial Judge shall intervene upon application by counsel by calling and apprising the physician of the requirement to appear. If the physician refuses or fails to appear, a bench warrant shall be issued and the Court shall grant a continuance of 24 hours, when required, for the attendance of the physician witness.

*Note:* Former Rule 228; adopted by The Board of Judges, originally General Court Regulation 84-6, effective November 6, 1984.

#### **Rule \*223.1 Trial Procedure—General.**

- (A) When, in the course of any trial, a document, writing or photograph shall be offered by any party as an exhibit, either for the purpose of identification or as part of the record in the case, true and correct copies thereof, or relevant extracts therefrom, shall be presented to the Trial Judge and to each counsel of record at the time such document, writing or photograph is marked for identification; provided, however, that this rule shall not apply to (1) X-ray films, or (2) such lengthy documents as deeds, bonds, mortgages, wills, books of account and voluminous hospital records, or (3) documents or records produced in Court under subpoena; and provided further that if compliance with this rule would serve no useful purpose or would result in unreasonable burden or expense, application shall be made either to the Calendar Judge before trial or to the Trial Judge before trial for an exemption from compliance with the rule. In the event that such true and correct copies of documents, writings or photographs, or relevant extracts therefrom, shall not be produced, and no exemption has been granted, the Trial Judge may, in the exercise of his or her discretion, refuse to allow such document, writing or photograph to be marked for identification or received in evidence.
- (B) The time to be occupied in examining a witness and addressing the jury shall be regulated by the Trial Judge.
- (C) If the attorney for a plaintiff makes an opening address to the jury, counsel for a defendant is at liberty, if he chooses to exercise his right, to make an opening address in reply before any testimony is taken; and, if the privilege is exercised, the defendant's counsel shall not be precluded thereafter from offering evidence as to

any matters of defense not specifically referred to in his or her opening address.

- (D) After the evidence is closed, only one attorney for each party or group of parties may address the jury. The attorney for the party or group of parties having the burden of proof shall first sum up, stating explicitly the grounds relied upon. The attorney for each adverse party or group of parties may then address the jury, and, if any such party has offered evidence, the attorney who commenced may conclude, restricting himself or herself to answering the arguments advanced.

*Note:* Former Rule 225; originally Star Rule \*223, adopted June 27, 1968.

#### **Rule \*227 Motions for Post-Trial Relief.**

- (a) *Time for filing.* All motions for post-trial relief shall be filed within the time limits prescribed by Pa.R.C.P. 227.1(c).
- (b) *Filing Procedure.* All motions for post-trial relief shall be filed with the Office of Judicial Records and the Post-Trial Motions Unit of the Motion Court. All motions for post-trial relief shall be accompanied by a certificate of service setting forth the name of the Trial Judge and the names, addresses and telephone numbers of all counsel and unrepresented parties. The post-trial motions shall be assigned to the Trial Judge immediately upon filing.

**See Forms Index**

- (c) *Court En Banc.* Argument before a court en banc as authorized in Pa.R.C.P. 227.2 may be requested by the moving party, in writing, attached to the motion for post-trial relief. All requests by opposing parties for argument before a court en banc shall be filed with the Office of Judicial Records and Motion Court within five days of service of the motion for post-trial relief.
- (d) *Trial Transcripts.*
  - (1) Trial transcripts shall be requested as provided in Pa.R.C.P. 227.3 and Pa.R.J.A. 5005.5(a) in writing addressed to the Court Reporter and to the Manager of Court Reporters, 1321 Arch Street, 3rd Floor, Philadelphia, PA 19107.
  - (2) The court reporter shall file the original notes of testimony, or that portion of the record ordered to be transcribed, with the Post-Trial Motions Unit of the Motion Court (for transmission to the Trial Judge) no later than 30 days after the notes of testimony are ordered. The Court Reporter shall contemporaneously with the filing of the notes of testimony deliver a copy to any party who has requested and paid for them and shall advise the Manager of

Court Reporters in writing that the requested transcript has been filed and delivered.

- (e) *Disposition of Post-Verdict Motions.*
- (1) *Oral Argument.* The Trial Judge shall schedule oral argument for a date certain taking into consideration the dictates of Pa.R.C.P. 227.4(1)(b).
  - (2) *Briefs.* The court may require the parties to submit briefs in support of, or contra, the post-verdict motions.
  - (3) *Disposition Date.* The court shall dispose of the post-trial motions within 120 days of the filing of the first post-trial motion unless the parties agree in writing to waive the application of Pa.R.C.P. 227.4(1)(b).
- (f) *Notice of the Entry of an Order Disposing of the Post-Verdict Motions.* Notice of the entry of the Order disposing of the post-verdict motions shall be given as provided by Pa.R.C.P. 236.

***See Forms Index***

**Editor's Note:** Adopted by the Board of Judges on May 16, 1996, GCR 96-2, July 22, 1996, effective immediately.

**Rule \*227.3**      ***Transcript of Testimony.***

- (a) *Post-Trial Motions.* The court may, upon receipt of a copy of a request for partial transcript, or upon receipt of a partial transcript, request that the Official Court Reporter transcribe additional portions of the transcript, or the entire transcript, if the transcription of the increased portion of the transcript is deemed necessary for the disposition of the outstanding post-trial motions. The cost of such transcription shall be incurred by the party who filed the post-trial motions. In the event more than one party has filed post-trial motions, the cost of transcription shall be borne equally between or among such parties.
- (b) *Appeals.* Upon receipt of the order for transcription of notes of testimony in connection with an appeal, and the requisite payment or deposit thereon, the Official Court Reporter shall prepare a full transcript of the case on appeal, unless the appellant or a cross-appellant has requested and obtained an order of diminution of transcription from the trial court. Pa.R.A.P. 1922 requires that an application for an order providing for less than the entire proceeding shall be made in civil cases within two days after the order for transcript is filed, and in criminal cases as provided in Pa.R.Crim.P. 115. As provided in Pa.R.A.P. 1911, the appellant must request and pay for the transcription of testimony; however, cross-appellants shall share the initial expense equally with all other appellants.

**Editor's Note:** Adopted July 6, 2006, effective 30 days after publication in the *Pennsylvania Bulletin*.

**Rule \*227.5**      ***Bill of Costs.***

- (A) *Time for Filing.* A bill of costs may be filed with the Office of Judicial Records no later than ten (10) days after final judgment. A judgment becomes final when the applicable appeal period has expired without appeal. A copy of the bill of costs shall immediately be served on all parties to the action and an affidavit of service filed with the Office of Judicial Records within two days after service.
- (B) *Parties Entitled.* Costs shall be allowed to a prevailing party except as otherwise provided by law or unless waived by a party who would otherwise be entitled thereto. A prevailing party shall include:
- (1) A party in whose favor a final judgment is entered.
  - (2) A party in favor of whom a non pros is entered.
  - (3) Defendants for whom judgment is entered, or who are dismissed from the action, even though the plaintiff ultimately prevails over the remaining defendants.
- (C) *Contents.* A bill of costs shall itemize those costs claimed to be due. The costs claimed may include:
- (1) *Record Costs.* All costs of record appearing on the docket including but not limited to the Office of Judicial Records fees and costs, the Sheriff's fees and costs, and the jury fee.
  - (2) *Non-record Costs.* Costs not appearing of record, including but not limited to:
    - (a) *Statutory witness fees.* The bill shall set forth the names of witnesses, the dates of their attendance, the number of miles actually travelled by them, and the place from which mileage is claimed;
    - (b) Costs of subpoenas for appearance in Court, including costs of service thereof;
    - (c) Costs of maps in eminent domain actions;
    - (d) Fees of appraisers, auditors and/or examiners where necessary to the action;
    - (e) Notary fees;
    - (f) Attorneys' fees if expressly authorized by statute or stipulation; and
    - (g) Filing fee for the bill of costs.
  - (3) Such other costs as are allowable by law.
- (D) *Proof of Costs.* The bill of costs shall be verified by the affidavit of the party, his agent or attorney, stating that the disbursements set forth have been necessarily incurred and are reasonable in amount, and if incurred for the attendance of witnesses, that the witnesses named were actually present in Court and that, in his opinion, they were material witnesses.
- (E) *Exceptions.* No later than twenty (20) days after final judgment, exceptions (identifying those costs to which objection is made with the reason therefor) shall be

filed with the Office of Judicial Records and a copy served on other parties. Failure to so file exceptions shall be deemed a waiver of all objections. Upon expiration of the period for filing exceptions and upon praecipe, the Office of Judicial Records shall (1) where exceptions have been so filed, set a hearing date and give the parties at least ten days notice thereof; or (2) where no exceptions have been so filed, impose the costs. Where a hearing is held, upon conclusion thereof, the Office of Judicial Records shall decide what costs are to be taxed and shall file a decision itemizing the taxable costs.

- (F) *Appeal.* An affected party may appeal from the Office of Judicial Records decision within ten (10) days from the date of written notice thereof by filing a notice of appeal of taxation of costs in accordance with the procedure for filing a motion as set forth in Philadelphia Civil Rule \*208.3(b)(3). The cover sheet shall set forth the name of the Trial Judge, that the action was an arbitration matter, or that no judge had been assigned. The notice of appeal shall specify the costs taxed by the Office of Judicial Records to which the appellant excepts and the reasons for the exceptions. The notice of appeal shall be filed with the Motion Court and a copy shall immediately be served upon all interested parties. If the Court modifies the decision of the Office of Judicial Records as to the amount or responsibility for costs, the reasons therefor shall be stated in writing and filed of record.
- (G) *Enforcement of Payment.* After taxation is final, the costs shall be entered on the record, included in the final judgment and collected with that judgment. Where costs are taxed against a party without a judgment for monetary damages, a judgment in the amount of the costs taxed shall be entered against such party.
- (H) *Taxation of Costs of Settlement.* Upon disposition by settlement, each party shall bear its own costs unless otherwise agreed.
- (I) *Forms.*

- (1) The bill of costs shall be substantially in the following form:

*See Forms Index*

- (2) The praecipe referred to in paragraph (E) above shall be substantially in the following form:

*See Forms Index*

**Note:** Former Rule 380; originally Star Rule \*308, amended by The Board of Judges, November 15, 1979, effective immediately; further amended by General Court Regulation 84-66, effective November 6, 1984.

**Editor's Note:** Amended May 20, 2004, effective July 26, 2004.

### **Rule \*229**      *Termination of Cases.*

- (A) Termination of a case prior to the entry of an arbitration award, verdict or judgment may be accomplished without leave of Court only by filing a praecipe to settle, discontinue and end, or a praecipe to discontinue (without prejudice), signed on behalf of all parties who have asserted claims in the action.
- (B) Termination of an appeal from arbitration before the entry of a verdict or judgment may be accomplished without leave of Court only by filing a praecipe to discontinue the appeal signed on behalf of all parties. If an appeal is discontinued, the arbitration award will remain on the judgment index unless an order to satisfy the award signed on behalf of the prevailing party or parties also is filed.
- (C) Termination of a case after the entry of an unappealed arbitration award or after the entry of a verdict or judgment may be accomplished without leave of Court only by filing a praecipe to satisfy the award, verdict or judgment signed on behalf of the prevailing party or parties.
- (D) When a settlement has been consummated, an award, verdict or judgment has been paid, or the parties have otherwise agreed to terminate a case, the appropriate praecipe or praecipes shall be filed within twenty (20) days thereafter, in default of which sanctions may be imposed.

**Note:** Former Rule 162; originally Star Rule \*229; adopted by The Board of Judges, General Court Regulation 75-8, August 7, 1975; amended by General Court Regulation 83-4, effective December 5, 1983.

This rule has been expanded to state the existing requirements concerning signatures by the appropriate parties, discontinuance of arbitration appeals, and satisfaction of the liens created by awards, verdicts and judgments.

### **Rule \*229.1**      *Settlement Recommendations, Demands and Offers.[Rescinded]*

**Explanatory Note:** This rule has been moved in its entirety to Philadelphia Civil Rule \* 212.3, titled Pretrial and Settlement Conferences, as Subsection (C).

**Editor's Note:** Adopted February 16, 2006, effective 30 days after publication in the *Pennsylvania Bulletin*; rescinded December 7, 2010, effective 30 days after publication in the *Pennsylvania Bulletin*.

### **Rule \*229.1**      *Sanctions for Failure to Deliver Settlement Funds.*

- (A) The following definitions shall apply:
- “Released Party.” A party released from a claim or claims of liability by a release executed pursuant to an agreement of settlement.
- “Releasing Party.” A party who, by execution of a release pursuant to an agreement of settlement, has agreed to forego a claim or claims of liability against a Released Party.

“Settlement Funds.” Payment, by a Released Party in any form of monetary exchange, to a Releasing Party pursuant to an agreement of settlement.

- (B) The provisions of this rule shall not apply to the annuity or future installment portion of a structured settlement agreement.
- (C) The Releasing Party and Released Party may agree in writing to modify or waive any of the provisions of this rule.
- (D) A Released Party shall have twenty (20) calendar days from receipt of an executed release within which to deliver the settlement funds to the Releasing Party or its counsel.
- (E) If settlement funds are not delivered to the Releasing Party within the aforesaid twenty (20)-day period, the Releasing Party may:
  - (1) invalidate the settlement; or
  - (2) file an affidavit with Motion Court attesting to non-payment. Such affidavit shall be accompanied by (a) the form of Order specified in paragraph (G) below, (b) a copy of any document evidencing the terms of the settlement agreement, (c) a copy of the executed release, and (d) a copy of a receipt reflecting delivery of the executed release more than twenty (20) days prior to the date of filing of the affidavit. The attorney shall certify to the Court the applicable interest rate and shall certify that the affidavit and accompanying documents have been served on all interested counsel.
- (F) Upon receipt of the attorney affidavit and supporting documentation required by paragraph (E)(2) above, the Released Party shall have twenty (20) days to file a response. If the Court finds that the Released Party has violated this rule and that there is no material dispute as to the terms of the settlement or the terms of the release, the Court shall impose sanctions in the form of interest calculated as set forth below together with reasonable attorneys’ fees incurred in the preparation of the affidavit. Interest shall be calculated at the rate equal to the prime rate as listed in the first edition of the Wall Street Journal published for the calendar year preceding the date on which the settlement funds were payable, plus one percent, not compounded, calculated from the twenty-first day after the date of the settlement to the date of delivery of the settlement funds.
- (G) The affidavit shall be accompanied by an Order in substantially the following form:

*See Forms Index*

*Note:* Former Rule 172; Adopted by the Board of Judges, originally General Court Regulation 85-7, effective July 22, 1985.

*Editor’s Note:* Amended May 19, 2003, effective July 1, 2003; adopted June 22, 2005, effective 30 days after publication in the *Pennsylvania Bulletin*.

**Rule 310** [Rescinded].

*Editor’s Note:* Rescinded July 3, 2008, effective 30 days after publication in the *Pennsylvania Bulletin*.

**Rule 311** [Rescinded].

*Editor’s Note:* Rescinded July 3, 2008, effective 30 days after publication in the *Pennsylvania Bulletin*.

**Rule 312** [Rescinded].

*Editor’s Note:* Rescinded July 3, 2008, effective 30 days after publication in the *Pennsylvania Bulletin*.

**Rule 313** [Rescinded].

*Editor’s Note:* Rescinded July 3, 2008, effective 30 days after publication in the *Pennsylvania Bulletin*.

**Rule 320** *Appeals from State and Local Agencies.*

- (A) *Applicability.* The Office of Judicial Records shall maintain a special docket for appeals from the determinations of state and local agencies (“statutory appeals”). Statutory appeals (and matters ancillary thereto) shall be presented to and determined by the Supervising Judge of Appeals (“Supervising Judge”).
- (B) *Manner of Taking Appeal.* An appeal may be commenced by filing a Notice of Appeal with the Office of Judicial Records.<sup>1</sup> The Notice of Appeal shall be in substantially the following form:

*See Forms Index*

- (C) *Procedure on Appeal.* The Supervising Judge shall publish a standing case management order for each agency whose determinations are appealed on a regular basis (“agency-specific orders”). For agencies whose determinations are seldom appealed, the Supervising Judge shall publish a standing order of a generic nature. The Office of Judicial Records shall provide appellant(s) with an agency-specific (or generic) standing order whenever a notice of appeal is filed. Every appeal (and matter ancillary thereto) shall be governed by the aforesaid standing order and any supplemental order, which may be issued by the Supervising Judge.
- (D) *Manner of Service.* The persons to be served, and the manner of making service, shall be specified in the standing order.

**1. Rule 320**

Statutes authorizing appeals from state agencies (and some local agencies) often require the appeal to be commenced by “petition.” See, e.g., 47 P.S. §4-464 (appeals involving the Liquor Control Board). Statutory requirements of this sort usually predate the constitutional remodeling of 1968 but, in any event, may be ignored. See, e.g., *Appeal of Borough of Churchill*, 575 A. 2d 550, 554 (Pa. 1990) (legislative bodies may not dictate civil procedure to Pennsylvania Courts). See also *Albrecht v. Borough of Shickshinny*, 565 A.2d 198, 201 (Pa. Commw. 1989) (improper appeal process may be transformed into valid process), *appeal denied*, 577 A.2d 891 (Pa. 1990).

(E) *Parties.*

- (a) The following persons shall be deemed parties opposed to the appeal unless they opt out by filing a praecipe with the Office of Judicial Records within 60 days of service of the Notice of Appeal:
- (1) the person(s) who initiated the proceedings before the agency below;
  - (2) the City of Philadelphia, but only in appeals involving local agencies;
  - (3) the School District of Philadelphia, but only in appeals involving school taxes; and
  - (4) the Commonwealth of Pennsylvania, but only in appeals involving state agencies.
- (b) Others may obtain party status by intervening in accordance with the procedures set forth in the standing order.

**Editor's Note:** Former Rule 146; adopted by The Board of Judges, originally General Court Regulation 81-7, July 30, 1981. Amended by General Court Regulation 81-8, September 9, 1981, General Court Regulation 88-2, February 18, 1988, and Administrative Docket 4 of 93, December 30, 1993. Former rule rescinded and new rule adopted May 23, 1997, effective July 1, 1997.

**Rule 325**                    *Appeals From the Zoning Board of Adjustment.*

**Editor's Note:** Rescinded May 23, 1997, effective July 1, 1997.

**Rule 330**                    *Appeals from the Board of Revision of Taxes.*

**Editor's Note:** Rescinded May 23, 1997, effective July 1, 1997.

**Rule \*430**                    *Publication.*

*The Legal Intelligencer* is designated as the legal publication for the publication of legal notices required to be published by statute, rule or court order.

**Note:** Former Rule 100; originally Star Rule \*233, adopted June 7, 1956, and Star Rule \*326. Former Rule \*430.2 renumbered and amended 2019, effective \_\_\_\_\_, 2019.

**Editor's Note:** Amended May 20, 2004, effective July 26, 2004.

**Rule \*430.1**                *[Reserved.]*

**Note:** Former Rule 141; adopted by The Board of Judges, originally General Court Regulation 81-6, effective July 14, 1981. Rescinded \_\_\_\_\_, 2019.

**Editor's Note:** Amended May 20, 2004, effective July 26, 2004.

**Editor's Note:** Pa.R.C.P. 430, which supplants this local rule, identifies the prerequisite good faith investigation that must be conducted before seeking service by special order of court.

**Rule \*440**                    *Service of Papers.*

- (A) Unless otherwise provided by statute or rule of Court, a copy of each paper filed in any case other than the writ or complaint by which an action is commenced, or other original process, shall be served by the party filing it upon all other parties to the litigation or their attorneys of record. Such service shall be complete upon mailing

and proof thereof shall be attached to the paper at the time of filing with the Office of Judicial Records.

- (B) In all cases in which the validity, sufficiency, or constitutionality of an ordinance of city council, or regulation adopted by an executive official pursuant to councilman's authorization, appears from the pleadings to be drawn in question, it shall be the duty of the party raising the same to serve notice thereof, in writing, accompanied by a copy of the pleadings to date, on the City Solicitor within forty-eight (48) hours after the said pleading shall be filed.
- (C) Whenever any person, having been served with a petition, rule, notice, pleading or process, original or interlocutory, fails to appear in response thereto, proof of service of the same must be filed in the case before the Court will act thereon.

**Note:** Former Rule 42; originally Star Rule \*327; paragraph A amended by The Board of Judges, General Court Regulation 86-5, effective August 4, 1986.

**Rule \*1001**                *General Provisions Applicable to Municipal Court Appeals.*

- (a) *Types of Final Orders of the Municipal Court Appealable to the Court of Common Pleas.*
- (1) Final orders issued by the Municipal Court in connection with money judgments pursuant to 42 Pa.C.S. §1123(a)(4) and (6), and Landlord—Tenant orders pursuant to 42 Pa.C.S. §1123(a)(3), are appealable to the Court of Common Pleas. The proceeding on appeal shall be conducted de novo in accordance with the Rules of Civil Procedures that Civil Division Rules Rule \*1001 would be applicable if the action being appealed was initially commenced in the Court of Common Pleas.
  - (2) Final orders issued by the Municipal Court in connection with actions to enjoin a nuisance pursuant to 42 Pa.C.S. §1123(a)(7) and (8) are appealable to the Court of Common Pleas, but the appeal is limited to a review of the record.
 

**Note:** 42 Pa.C.S. §1123(a)(8)(a.1) provides that contempt orders issued in connection with nuisance actions shall be heard by the Superior Court of Pennsylvania.
  - (3) *Supplementary Orders.* Orders granting or denying a petition to open a default judgment and any other post-judgment orders are appealable to the Court of Common Pleas, but the appeal is limited to a review of the record.
- (b) *Notice of Appeal.* A Notice of Appeal, substantially in the form set forth below as Attachment 1, shall be filed with the Office of Judicial Records, within the time periods set forth below, and the requisite filing fee shall be paid.
- (c) *Time to File the Notice of Appeal.* A Notice of Appeal shall be filed as follows:

- (1) Money judgment only: within 30 days after the date of the entry of a judgment for money on the dockets of the Municipal Court.
- (2) Landlord-Tenant, residential lease, possession: within ten (10) days after the date of the entry of a judgment of possession of real property on the dockets of the Municipal Court, if the appeal is for possession of real property only or for both possession and money judgment arising out of a residential lease.
- (3) Landlord-Tenant, residential lease, money judgment: within thirty (30) days after the date of the entry of a judgment of possession on the dockets of the Municipal Court, if the appeal is only for the money judgment arising out of a residential lease.
- (4) Landlord-Tenant, non-residential lease: within 30 days after the date of the entry on the dockets of the Municipal Court of judgment for money, or a judgment for possession of real property arising out of a nonresidential lease.
- (5) Supplementary Orders: within 30 days after the date of the entry of the order on the dockets of the Municipal Court.

(d) *Service.* The Notice of Appeal shall be served on the appellee as provided by the rules applicable to service of original process in Philadelphia County, as set forth in Pa.R.C.P. No. 400.1. Upon implementation of the Civil Electronic Filing System as provided in Philadelphia Civil Rule \*205.4, notice of the filing of the Notice of Appeal will be served on the Philadelphia Municipal Court electronically by the Civil Electronic Filing System.

Until the Civil Electronic Filing System is implemented, the appellant must serve a copy of the Notice of Appeal on the Philadelphia Municipal Court as required by Pa.R.C.P. No. 400.1.

(e) *Return of Service.* The appellant must file a return of service as required by Pa.R.C.P. No. 405.

(f) *Pleadings and Legal Papers.*

- (1) Appeals filed pursuant to Philadelphia Civil Rule \*1001(a)(1).
  - i. If the appellant was the plaintiff or claimant in the action before the Municipal Court, he shall file a complaint within twenty (20) days after filing the Notice of Appeal.
  - ii. If the appellant was the defendant in the action before the Municipal Court, he shall file with the Notice of Appeal a praecipe requesting the Office of Judicial Records to enter a rule as of course upon the appellee to file a complaint within twenty (20) days after service of the rule or suffer entry of a judgment of non pros.

- iii. When judgments have been rendered on complaints of both the appellant and the appellee and the appellant appeals from the judgment on his complaint or on both complaints, the appellee may assert his claim in the Court of Common Pleas by pleading it as a counterclaim if it can properly be so pleaded in that court. If the appellant appeals only from the judgment on his complaint, the appellee may appeal from the judgment on his complaint at any time within thirty (30) days after the date on which the appellant served a copy of his Notice of Appeal upon the appellee.

*Explanatory Note:* Pa.R.C.P.M.D.J. No. 1004 is the source of section (f)(1).

- iv. All further pleadings and proceedings shall be in accordance with the Rules of Civil Procedures that would be applicable if the action being appealed was initially commenced in the Court of Common Pleas.

(2) Appeals filed pursuant to Rule \*1001(a)(2) and (3).

- i. Within twenty (20) days of the filing of the Notice of Appeal, the appellant must file a motion with the Office of Judicial Records in compliance with Pa.R.C.P. No. 208.1 et seq. and Phila.Civ.R. \*208.2(c) et seq., setting forth the relief requested, and shall attach:

- a. a copy of the Statement of Claim, the Landlord/Tenant Complaint or Code Enforcement Complaint which was filed in the Municipal Court;
- b. the stenographic record of the proceeding before the Municipal Court, if available, or proof that transcription of the stenographic record has been ordered; and
- c. all other documents required to be filed by Philadelphia Civil Rule 208.1 et seq. which is necessary to enable the court to decide the issue presented.

- ii. All further legal papers and proceedings shall be in accordance with Pa.R.C.P. No. 208.1 et seq. and Phila.Civ.R. \*208.2(c) et seq. and with the Rules of Civil Procedures that would be applicable if the action being appealed was initially commenced in the Court of Common Pleas.

(g) *Hearing or Trial.*

- (1) Appeals filed pursuant to Rule \*1001(a)(1) shall be scheduled for a hearing at the Arbitration Center, and the case shall proceed as an "Arbitration" Case Type.
- (2) Appeals filed pursuant to Rule \*1001(a)(2) and (3) shall proceed as motions, pursuant to Pa.R.C.P. No. 208.1 et seq. and Phila.Civ.R. \*208.2(c) et seq. The appeal shall be limited to a determination by

the Court whether the Municipal Court committed an error of law or abused its discretion in ruling upon the petition or motion which is the subject of the appeal. Upon the issuance of a dispositive order by the Court of Common Pleas, the action shall be remanded to the Municipal Court for further processing consistent with the order.

- (h) *Striking Appeal.* Upon failure of the appellant who was the plaintiff in the Municipal Court action to file a complaint within twenty (20) days of the filing of the appeal as required by section (f)(1)(i), or upon the failure of the appellant who was the defendant in the Municipal Court action to serve upon the appellee (who was the plaintiff in the Municipal Court action) of a rule to file a complaint, or upon the failure of an appellant to file a motion as required by section (f)(2), the Office of Judicial Records shall, upon praecipe of the appellee, mark the appeal stricken from the record. The Court of Common Pleas may reinstate the appeal upon good cause shown.

*Note:* Adopted by the Board of Judges of the Court of Common Pleas on May 15, 2008. Promulgated by Order dated May 20, 2008. Effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

**See Forms Index**

*Editor's Note:* Adopted July 3, 2008, effective 30 days after publication in the *Pennsylvania Bulletin*.

**Rule \*1007.1 Listing Procedures and Jury Fees.**

- (A) *Listing Procedure.*
- (1) *Arbitration Cases.* All arbitration cases shall be assigned a trial date in accordance with Philadelphia Civil Rule \*1303.
  - (2) *Cases Not Assigned to Arbitration.* All other cases (including appeals from arbitration) shall be assigned pursuant to Philadelphia Civil Rule \*215.
- (B) *Listing Fees.*
- (1) Jury demand shall be made in accordance with Pa.R.C.P. 1007.1. In order to perfect its right to a jury trial and have the case assigned to the Jury list, a party must pay the Jury listing fee at the time of the jury demand.
  - (2) When an appeal is filed from an arbitration award rendered pursuant to Philadelphia Civil Rule \*1301, the procedure for demanding a jury shall be as set forth in Pa.R.C.P. 1007.1(b). The jury listing fee shall be paid at the time of the demand.
  - (3) With respect to transfers from arbitration to the major case program, the deadlines for demanding a jury and paying the jury listing fee shall be the same as for appeals from arbitration.

*Editor's Note:* Amended May 18, 1985, effective 30 days after publication in *Pennsylvania Bulletin*.

**Rule \*1007.2 Jury Size in Civil Trials.**

- (A) Except as provided in paragraph (B) below, juries in civil cases shall consist, initially, of eight members. Trials in such cases shall continue so long as at least six jurors remain in service. If the number of jurors falls below six, a mistrial shall be declared upon prompt application therefor by any party then of record.
- (B) Trial by a jury consisting of 12 members may be had if requested in the jury demand at the time it is made or within 30 days thereafter.

*Note:* Former Rule 220; adopted by The Board of Judges, originally General Court Regulation 72-23, August 2, 1972; amended by General Court Regulation 78-6, October 5, 1978.

**Rule \*1008 Municipal Court Appeals as Supersedeas.**

- (a) *General Rule.* Except as provided in section (b), (c) and (d) below, service of a copy of the Notice of Appeal on the Municipal Court operates as a supersedeas.
- (b) *Supersedeas in Appeals of Judgments of Possession of Real Property Pursuant to Non-Residential Leases.* When the appeal is from a judgment for possession of real property pursuant to a non-residential lease, receipt by the Municipal Court of a copy of the Notice of Appeal shall operate as a supersedeas only if the appellant/tenant, at the time of the filing of the Notice of Appeal, deposits with the Office of Judicial Records a sum of money (or a bond, with surety approved by the Office of Judicial Records) equal to the lesser of three months' rent or the rent actually in arrears on the date of the filing of the Notice of Appeal, based on the Municipal Court judgment, and thereafter deposits each month with the Office of Judicial Records an amount equal to the monthly rent which becomes due while the appeal is pending in the Court of Common Pleas. The additional deposits shall be made within thirty (30) days following the date of the filing of the Notice of Appeal, and each successive thirty (30) day period thereafter.
- (c) *Supersedeas in Appeals of Judgments of Possession of Real Property Pursuant to Residential Leases.* When the appeal is from a judgment for possession of real property pursuant to a residential lease, and there is no allegation that the appellant/tenant is indigent, receipt by the Municipal Court of a copy of the Notice of Appeal shall operate as a supersedeas only if the appellant/tenant, at the time of the filing of the Notice of Appeal, deposits with the Office of Judicial Records a sum of money (or a bond, with surety approved by the Office of Judicial Records) equal to the lesser of three months' rent or the rent actually in arrears on the date of the filing of the Notice of Appeal, based on the Municipal Court judgment, and thereafter deposits each month with the Office of Judicial Records an amount equal to the monthly rent which becomes due while the appeal

is pending in the Court of Common Pleas. The additional deposits shall be made within thirty (30) days following the date of the filing of the Notice of Appeal, and each successive thirty (30) day period thereafter.

(d) *Supersedeas in Appeals of Judgments of Possession of Real Property Pursuant to Residential Leases. Indigent Tenants.*

- (1) Residential tenants who seek to appeal from a Municipal Court judgment for possession and who do not have the ability to pay the lesser of three months' rent or the full amount of the Municipal Court judgment for rent shall file with the Office of Judicial Records, as applicable, either a Tenant's Supersedeas Affidavit (Non-Section 8), substantially in the form set forth below or Tenant's Supersedeas Affidavit (Section 8), substantially in the form set forth below.

**Explanatory Note:** On April 15, 2008, at the recommendation of the Minor Court Rules Committee ("Committee"), the Supreme Court of Pennsylvania approved amendments to Pa.R.C.P.M.D.J. No. 1008 (effective May 15, 2008). The recommendation was based on federal district court lawsuits challenging the constitutionality of Pa.R.C.P.M.D.J. No. 1008B as applied to indigent tenants. The Committee noted in its Report that federal district courts had held that indigent residential tenants' rights were being violated by Rule 1008B's requirement that tenants post three times the monthly rent or the rent determined to be in arrears so that they could remain in the home while appealing a magisterial district judge's award of possession to the landlord.

The Committee cited in its Report the federal district court case *Wendolyn Pleasant and Tenants' Action Group v. Joseph H. Evers*, 1998 WL 205431 (E.D. Pa. Apr. 24, 1998), C.A.NO. 97-4124 (Ludwig, J.) and noted: "In *Evers*, Community Legal Services challenged Philadelphia Municipal Court's Rule of Procedure 124, which required a deposit to be paid in almost the same fashion as Pa.R.C.P.M.D.J. No. 1008B. During the early phases of the protracted litigation, a temporary restraining order was entered enjoining the use of the Municipal Court rule. Ultimately, *Evers* led Municipal Court to change its practices and create a standing procedure for indigent residential tenants' appeals. That procedure is still used today."

The procedure recommended by the Committee and approved by the Supreme Court in its April 15, 2008 order is essentially the *Evers* procedure which, as the Committee noted, has been in effect in Philadelphia County since 1998; however, that procedure was never adopted as an official court rule. Independently of the Committee's effort to address the constitutionality of Pa.R.C.P.M.D.J. No. 1008 as applied to indigent residential tenants in all counties other than Philadelphia, the Court of Common Pleas of Philadelphia County was in the process of incorporating the *Evers* requirements in comprehensive local rules addressing appeals from the Philadelphia Municipal Court. Philadelphia Civil Rules \*1001 and \*1008 represent the culmination of that effort and, in order to foster statewide uniformity, incorporate most, if not all, of the provisions found in Pa.R.C.P.M.D.J. No. 1001 to 1008.

- (2)(a) If the rent has already been paid to the landlord in the month in which the Notice of Appeal is filed, the tenant shall pay into an escrow account with the Office of Judicial Records the monthly rent in thirty (30) day intervals from the date the notice of appeal was filed, and each successive thirty (30) day period thereafter; or
- (b) If the rent has not been paid at the time of filing the Notice of Appeal, the tenant shall pay:

- (i) at the time of filing the Notice of Appeal, a sum of money equal to one third (1/3) of the monthly rent;
- (ii) an additional deposit of two thirds (2/3) of the monthly rent within twenty (20) days of filing the Notice of Appeal; and
- (iii) additional deposits of one month's rent in full each thirty (30) days after filing the Notice of Appeal. The amount of the monthly rent is the sum of money found by the Municipal Court to constitute the monthly rental for the leasehold premises. However, when the tenant is a participant in the Section 8 program, the tenant shall pay the tenant share of the rent as set forth in the "Section 8 Tenant's Supersedeas Affidavit" filed by the tenant.

- (3) The Office of Judicial Records shall provide residential tenants who have suffered a judgment for possession with "Supplemental Instructions for Obtaining a Stay of Eviction," substantially in the form set forth below.

**Note:** The Supplemental Instructions include both Instructions and Income Limits. The Income Limits are stated in monthly amounts and are based upon the most recent poverty income guidelines issued by the Federal Department of Health and Human Services.

- (4) When the requirements of paragraphs (1) and (2) have been met, the Office of Judicial Records shall issue a supersedeas.
- (5) Upon application by the landlord, the Court of Common Pleas shall release appropriate sums from the escrow account on a continuing basis while the appeal is pending to compensate the landlord for the tenant's actual possession and use of the premises during the pendency of the appeal.
- (6) If the tenant fails to make monthly rent payments to the Office of Judicial Records as described in paragraph (2), the supersedeas may be terminated by the Office of Judicial Records upon praecipe by the landlord or other party to the action, substantially in the form set forth below which is to be filed together with a certificate that a copy of the praecipe has been mailed to each other party who has appeared in the action. Notice of the termination of the supersedeas shall be forwarded by first class mail to attorneys of record, or, if a party is unrepresented, to the party's last known address of record; however, upon implementation of the Civil Electronic Filing System as provided in Philadelphia Civil Rule \*205.4, notice of the termination of the supersedeas will be served on the Philadelphia Municipal Court electronically by the Civil Electronic Filing System. The landlord may obtain a writ of possession from the Municipal Court ten (10) days after the supersedeas is terminated by the Office of Judicial Records.

**Explanatory Note:** Although the Office of Judicial Records must provide notice of the termination of the supersedeas for

non-payment of the monthly rental payments as provided in this subsection, in order to allow the notice to be delivered to the tenant before the eviction can proceed, the landlord must wait ten (10) days before obtaining a writ of possession from the Municipal Court after termination of the supersedeas by the Office of Judicial Records.

- (7) If the Court of Common Pleas determines, upon written motion or its own motion, that the averments within any of the tenant's affidavits do not establish that the tenant meets the terms and conditions of paragraph (1), *supra*, the Court may terminate the supersedeas. Notice of the termination of the supersedeas shall be forwarded by first class mail to attorneys of record, or, if a party is unrepresented, to the party's last known address of record; however, upon implementation of the Civil Electronic Filing System as provided in Philadelphia Civil Rule \*205.4, notice of the termination of the supersedeas will be served on the Philadelphia Municipal Court electronically by the Civil Electronic Filing System.
- (8) If an appeal is stricken or voluntarily terminated, any supersedeas based on it shall terminate. The Office of Judicial Records shall pay the deposits of rental to the party who sought possession of the real property.

**Explanatory Note:** Pa.R.C.P.M.D.J. No. 1008 is the source of this local rule. The content of the Note which appears immediately after Pa.R.C.P.M.D.J. No. 1008 explaining the various provisions has been edited as appropriate and is adopted as a Note to this local rule.

**Note:** Subdivision (a) provides for an automatic supersedeas in appeals from civil actions upon receipt by the Municipal Court of a copy of the Notice of Appeal filed with the Office of Judicial Records of the Court of Common Pleas. Subdivisions (b) and (c), however, do require the deposit of money or approved bond as a condition for supersedeas where the appeal is from a judgment for the possession of real property. Subdivision (d) provides for appeals by indigent residential tenants who are unable to meet the bond requirements of subdivision (b) or (c).

The request for termination of the supersedeas, upon the praecipe filed with the Office of Judicial Records, may simply state: "Please terminate the supersedeas in the within action for failure of the appellant to pay monthly rental as required by Philadelphia Civil Rule \*1008 when it became due" and will be signed by appellee. The Office of Judicial Records will then note upon the praecipe: "Upon confirmation of failure of the appellant to deposit the monthly rent when it became due, the supersedeas is terminated," and the Office of Judicial Records will sign and date and time stamp the praecipe. A copy of the praecipe may thereupon be filed with the Municipal Court which rendered the judgment, and a request for issuance of an order for possession pursuant to Phila.M.C.R.Civ.P. No. 126 may be made.

The deposit of rent required is intended to apply in all cases, irrespective of the reasons which caused the filing of the complaint before the Municipal Court in the first instance.

Disposition of the monthly rental deposits will be made by the Court of Common Pleas following its de novo hearing of the matter on appeal.

The money judgment portion of a landlord and tenant judgment would be governed by subdivision (a).

Adopted by the Board of Judges of the Court of Common Pleas on May 15, 2008. Promulgated by Order dated May 20, 2008. Effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

**See Forms Index**

**Editor's Note:** Adopted July 3, 2008, effective 30 days after publication in the *Pennsylvania Bulletin*. Amended March 8, 2017, effective 30 days after publication in the *Pennsylvania Bulletin*.

### **Rule 1012**      *Entry and Withdrawal of Appearance.*

- (A) *Entry of Appearance.* In order to prevent delay of the litigation, an attorney who enters an appearance for a party shall be deemed to be available and ready to try the case on the assigned hearing or trial date. The hearing or trial date will not be rescheduled due to the entry of appearance of counsel of any party.
- (B) *Simultaneous Withdrawal and Entry of Appearance.* In order to prevent delay of the litigation, an attorney who enters an appearance for a party simultaneously with the withdrawal of appearance of prior counsel in an action shall be deemed to be available to try the case on the assigned hearing or trial date. The hearing or trial date will not be rescheduled due to the entry of appearance of new counsel of any party.
- (C) *Motion to Withdraw.* Leave of Court, obtained through the filing Motion to Withdraw Appearance, is required if another attorney is not entering an appearance simultaneously with the withdrawal of current counsel. The Motion shall set forth with specificity the reasons the attorney seeks to withdraw. The attorney seeking to withdraw must attach to the Motion to Withdraw a certification setting forth the following:
- (1) that there is not outstanding motion to compel discovery, or for sanctions for failure to provide discovery; and
  - (2) that the attorney has met every deadline date set forth in the pertinent Case Management Order, if applicable.

**Note:** Pennsylvania Rule of Civil Procedure No. 1012 authorizes the entry, or change, of attorneys on behalf of a party provided that the change of attorneys does not delay any stage of the litigation.

Consistently with this Rule, the Board of Judges has determined that entry of new counsel in an action shall not delay the litigation. Thus, attorneys are placed on notice that by entering an appearance, they will be deemed to be ready to proceed to trial as scheduled. The mere fact of the entry of appearance shall not be sufficient cause to postpone the previously scheduled hearing or trial. Similarly, an attorney who seeks leave of court to withdraw must establish compliance with applicable deadlines and rules.

**Editor's Note:** Adopted March 3, 2000, effective 30 days after publication in the *Pennsylvania Bulletin*; amended May 20, 2004, effective July 26, 2004.

### **Rule \*1018**      *Caption.*

- (a) The case caption shall appear below the attorney address at the left-hand margin of the page with the proper Court Term and Number appearing to the right-hand margin.
- (b) The complaint or other original filing shall contain in the Caption the addresses, including the electronic mail address, and zip codes, of all parties.

**Source:** Former Philadelphia Civil Rule \*205.2(a) (5) and (6). The reference to the inclusion of an electronic mail address has been added.

**Editor's Note:** Adopted November 15, 2007, effective January 7, 2008.

**Rule \*1018.1 Notice to Defend—Form—Contents.**

- (A) The agency to be contacted for legal help as provided in Pa.R.C.P. 1018.1(b) is:
- Philadelphia Bar Association  
Lawyer Referral and Information Service  
One Reading Center  
Philadelphia, Pennsylvania 19107  
Telephone (215) 238-1701
- (B) The notice required shall also be given in Spanish. The Spanish version is as follows:

**See Forms Index**

**Note:** Former Rule 102; originally Star Rule \*1918, adopted May 15, 1975, effective July 1, 1975; amended February 21, 1980, effective March 7, 1980; amended by The Board of Judges, General Court Regulation number 85-10, effective October 1, 1985.

**Rule \*1021 Claim for Relief. Amount in Controversy. Sum Certain.**

Whenever money damages in a sum certain are claimed, the pleading shall state the precise amount, and the date or dates from which any interest thereon is claimed.

**Source:** Former Philadelphia Civil Rule \*205.2(a)(8).

**Editor's Note:** Adopted November 15, 2007, effective January 7, 2008.

**Rule \*1028.1 Preliminary Objections to Declaration of Taking Pursuant to Section 406 of The Eminent Domain Code or to Petition for Appointment of Viewers Alleging De Facto Taking or Other Compensable Injury Pursuant to Section 502(e) of The Eminent Domain Code.**

- (A) The general provisions of Rule \*1028 and Rule \*206.1 shall not apply to preliminary objections to a declaration of taking pursuant to Section 406 of the Eminent Domain Code or to a petition for appointment of viewers alleging a de facto taking or other compensable injury pursuant to Section 502(e) of the Eminent Domain Code.
- (B) Preliminary objections to a declaration of taking pursuant to Section 406 of the Eminent Domain Code or to a petition for appointment of viewers alleging a de facto taking or other compensable injury pursuant to Section 502(e) of the Eminent Domain Code shall be filed with the Office of Judicial Records and, within 72 hours of filing, shall be served upon all adverse parties. The objections shall state specifically the grounds

relied upon and include a statement as to whether the objections raise issues of fact or raise solely issues of law.

- (C) Within twenty (20) days after such filing, any party may, but need not, file as response to the preliminary objections. Any response filed shall specifically respond to the statement as to whether preliminary objections raise issues of fact or raise solely issue of law.
- (D) The court shall determine whether factual issues must be resolved in order to determine the preliminary objections. If factual issues must be resolved, the court shall establish a schedule and procedure for the taking of discovery and resolution of the factual issues by evidentiary depositions or an evidentiary hearing, and, if necessary, the court shall set a brief schedule and schedule argument.

**Editor's Note:** Adopted by the Board of Judges on February 26, 2005.

**Rule \*1028(c) Preliminary Objections.**

- (1) All preliminary objections shall be filed with the Office of Judicial Records, as provided in Pa.R.C.P. 1028, together with:
- (a) a Brief or Memorandum of Law, as set forth in Phila.Civ.R. \*210;
  - (b) copies of all items necessary or relevant to the disposition of the preliminary objections. This shall include the complaint, answer, and reply to new matter. All such items shall be included or attached and marked as exhibits separately. The Court may decide preliminary objections against a party who fails to attach to the filing those items necessary to enable the Court to determine the preliminary objections; and
  - (c) a proposed order, which shall contain no reference to the attorney proposing same.
- (2) As provided in Pa.R.C.P. No. 1028(c)(1), any party may file an amended pleading as of course within twenty (20) days after service of the preliminary objections. Upon the timely filing of an amended pleading, the preliminary objections shall be administratively marked "moot" on the docket of the case.
- (3) An answer to preliminary objections is required (within twenty (20) days after service of the preliminary objections) only to preliminary objections raising an issue under Pa.R.C.P. 1028 (a)(1), (5), (6), (7) or (8), provided a notice to plead is attached to the preliminary objections. An answer need not be filed to preliminary objections raising an issue under Pa.R.C.P. 1028(a)(2), (3) and (4).
- (4) An answer to preliminary objections, if filed, shall be filed together with:
- (a) a Brief or Memorandum of Law, as set forth in Phila.Civ.R. \*210;

- (b) copies of all items necessary or relevant to the disposition of the preliminary objections. This shall include the complaint, answer, and reply to new matter. All such items shall be included or attached and marked as exhibits separately. The Court may decide preliminary objections against a party who fails to attach to the filing those items necessary to enable the Court to determine the preliminary objections; and
- (c) a proposed order, which shall contain no reference to the attorney proposing same.

***See Forms Index***

*Editor's Note:* Rescinded and replaced May 20, 2004, effective July 26, 2004; amended November 15, 2007, effective January 7, 2008.

**Rule \*1034(a) Motion for Judgment on the Pleadings.**

After the relevant pleadings are closed, but within such time as not to unreasonably delay the trial, any party may file a motion on the pleadings as follows:

- (1) the moving party shall file a motion as provided in Phila.Civ.R. \*208.3, attaching thereto a copy of all pleadings which must be considered by the Court and a brief or memorandum of law, as provided in Phila.Civ.R. \*210, which shall be served on all other parties as required by Pa.R.C.P. 440;
- (2) the non-moving parties shall file a response within twenty (20) days of the service of the motion, may attach any document, pleading or item not attached by the moving party, and shall include a brief or memorandum of law as provided in Phila.Civ.R. \*210,
- (3) the court may schedule a date for argument as appropriate.

*Editor's Note:* Adopted May 20, 2004, effective July 26, 2004.

**Rule \*1035.2(a) Motion for Summary Judgment.**

- (1) *General Rule.* After the relevant pleadings are closed, but within such time as not to unreasonably delay trial, and in accord with any case-specific case management order, any party may file a motion for summary judgment, as provided in Pa.R.C.P. No. 1035.1 et seq., and this local rule.
- (2) *Content of the Motion for Summary Judgment.* The moving party shall provide the bases for the entry of summary judgment in a motion divided into consecutively numbered paragraphs. Each paragraph shall contain as far as practicable only one material allegation. The moving party must reference in each allegation the "record" (as that term is defined in Pa.R.C.P. No. 1035.1) which the moving party wants the court to consider, and shall attach a copy of that record as an exhibit. The moving party shall include with the motion a brief or memorandum of law, as provided in Phila.

Civ.R. \*210. The brief or memorandum of law shall provide the court with the legal bases for summary judgment in light of the allegations made in the motion, and shall not reference any fact or pleading not raised in the motion. Any fact or allegation mentioned in the brief or memorandum of law which is not listed in the summary judgment motion will not be considered by the court.

- (3) *Service of Summary Judgment Motion.* The summary judgment motion, exhibits and brief or memorandum of law must be served on the party or parties against whom summary judgment is requested, as provided in Pa.R.C.P. No. 440.
- (4) *Response to Motion for Summary Judgment.* The adverse party or parties must file a response to the motion for summary judgment within thirty (30) days of service of the motion, as provided in Pa.R.C.P. No. 1035.3. The response to the motion shall be divided into paragraphs, numbered consecutively, corresponding to the numbered paragraphs of the motion for summary judgment. The response shall state whether each of the allegation is admitted or denied. No general denial is acceptable. The factual reasons for the denial or dispute must be specifically stated and the "record" (as that term is defined in Pa.R.C.P. No. 1035.1) supporting the denial or dispute must be attached as an exhibit. A response may also include additional allegations demonstrating any genuine issue of material fact, in which event the responding party must reference and attach a copy of the "record" (as that term is defined in Pa.R.C.P. No. 1035.1) which demonstrates the existence of a genuine issue of material fact.

*Editor's Note:* Previous civil rule 1035.2(a) rescinded, and current rule 1035.2(a) adopted October 26, 2006.

**Rule \*1037.1 Judgments by Default—Certificate of Non-Military Service Required.**

- (A) Before a default judgment may be entered in any case against a defendant who has failed to file an appearance, an affidavit must be filed by the plaintiff setting forth facts showing that the defendant is not in the military service, or that he or she is in the service, or that plaintiff is unable to determine whether or not he or she is in the service, to which may be added facts which would justify entry of judgment.
- (B)
  - (1) If the facts set forth in the affidavit disclose that the defendant is not in the military service, the Office of Judicial Records shall enter judgment.
  - (2) If the affidavit discloses that the defendant is in the military service or if it is averred that the plaintiff is unable to determine whether or not the defendant is in the service, the plaintiff shall put the petition for judgment upon a list provided for the purpose of

hearing. At such hearing, evidence may be presented relating to the defendant's military status, the efforts made by the plaintiff to ascertain his status, the propriety of staying the judgment, the terms of said stay, or of a stay of execution, the entry of a bond, the appointment of an attorney to represent the defendant, and other related questions. Following such hearing, the Court will make such order as in its opinion is appropriate. Prior to such hearing, the plaintiff shall apply to the military authorities for certificates contemplated in Section 601, paragraphs (1) and (2), of the Soldiers' and Sailors' Civil Relief Act, and shall file of record any certificates furnished by such authorities and any answers of the latter to plaintiff's request. Plaintiff shall incorporate in the application for a certificate all information in his possession touching the identity of the defendant.

- (C) If it shall appear at any stage of the proceeding that the defendant is in the military service, the Court shall appoint an attorney to represent the defendant. The attorney shall inquire into defendant's military status, and pertinent facts. He need not, in making his inquiry, require sworn testimony or depositions, but shall inform himself from any reliable source of the pertinent facts. When he has concluded his inquiry, he shall report to the Court the facts showing the status of the defendant so far as the attorney has been able to ascertain them, together with his recommendation on the subject including, unless it appears that defendant is not in the service, the necessity or propriety of requiring a bond and the amount thereof, and the reason for his recommendations. The report of the attorney shall be filed and the plaintiff's petition for judgment put upon the motion list for consideration by the Court. The attorney shall render his service gratis unless a fee is allowed by order of the Court.
- (D) If the plaintiff is of the opinion that the proceedings do not fall within the provisions of the Soldiers' and Sailors' Civil Relief Act, he may enter a rule for judgment, setting forth in such petition the reasons for such opinion, and put the petition upon the motion list for consideration of the Court.
- (E) In any action in mortgage foreclosure, or in any suit upon a ground rent, if the identity of the real owner is known to the plaintiff, and no appearance has been filed on behalf of the real owner, before a default judgment may be entered, the plaintiff shall comply with paragraph (A) above. If the plaintiff shall file an affidavit in such proceeding averring that he or she does not know and has been unable to ascertain the identity of the real owner, the plaintiff shall not enter judgment by default without an order of the Court. Such order may be granted upon an affidavit showing to the satisfaction of the Court that the plaintiff or someone on his behalf has made reasonable efforts to ascertain the identity of the

real owner. In all such foreclosures or ground rent proceedings, if no appearance has been entered on behalf of the mortgagor or covenantor, the plaintiff shall comply with the provisions of paragraph (A) above before judgment may be entered, unless in the case of a mortgagor a release of the mortgagor's liability on the bond shall be filed.

- (F) In any case in which any real owner may be in the military service, no execution to sell real estate shall issue upon a judgment entered on a power of attorney contained in any written instrument originating prior to October 17, 1940, and secured by a mortgage unless the judgment upon which execution is to issue was entered against such real owner in accordance with these rules within a period of six months prior to such execution, or unless the plaintiff on petition shall obtain an order of Court for such execution. (G) No writ for possession shall issue upon any judgment for possession of premises occupied chiefly for dwelling purposes by a spouse, children, or other dependents of a person in military service, as defined by Section 300(1) of the Soldiers' and Sailors' Civil Relief Act of Congress of 1940, and in which the rent of the premises does not exceed the sum of \$80 per month, unless a petition shall be filed with the Court after judgment is secured and leave granted thereon for the issuance of such writ. Such leave will be granted if the tenant's ability to pay the rent is not materially affected by reason of such military service. If so materially affected, the issuance of the writ will be stayed for a period of not longer than three months, or such order will be made upon a petition as to the Court appears to be just.

*Note:* Former Rule 105; originally Star Rule \*921.

**Rule \*1037.2     *Judgments by Default—Assessment of Damages.***

- (A) In order for the Office of Judicial Records to assess damages pursuant to Pa.R.C.P. 1037(b)(1) upon default for failure to answer, a complaint in an action must pray for specific items and amounts. Interest must be expressed by rate or per diem and the time period to which interest rate(s) apply must be stated (e.g., to the date of judgment or the date of sheriff sale), late charges, escrow (taxes and insurance only) and mortgage insurance premium(s) must be expressed as a monthly rate. Actual and anticipated attorney fees, Court costs and any other permissible costs must be prayed for and a dollar amount expressed. All of the above items will be docketed as they apply in the case.
- (B) In summary, the complaint and praecipe for assessment of damages must conform to the following format if assessment upon praecipe is sought:
- (1) Principal amount due;
  - (2) Interest (rate or per diem) and time period;

- (3) Escrow taxes and insurance only (monthly rate);
  - (4) Mortgage insurance premium (monthly rate);
  - (5) Fees (anticipated and actual);
  - (6) Late charges (monthly rate) and time period;
  - (7) Court costs (anticipated and actual); and
  - (8) Other permissible costs.
- (C) In the event a complaint and praecipe to assess damages as drafted does not permit a comparison utilizing the computerized docket, Office of Judicial Records shall make the comparison. In the event the plaintiff does not agree with the Office of Judicial Records determination, the plaintiff must proceed to Motion Court for a ruling on whether the assessment may be entered by praecipe.

*Note:* Adopted by The Board of Judges, originally General Court Regulation 86-7.

**Rule \*1038**      *Trial Without Jury.*

- (A) The trial of actions at law, other than for personal injuries or damage to property, by a judge, sitting without a jury, shall be conducted, as nearly as may be, as are trials by jury, and the parties shall have like rights and privileges, including the right to suffer or move for non-suits.
- (B) The decision of the Judge may consist only of the decision in the case, or may include also such other matters as the Judge deems desirable.
- (C) The decision may be made orally, in open Court, at the end of the trial, and be forthwith transcribed and filed in the Office of the Court Administrator, or it may be in writing, filed in the said office, in which event the Court Administrator shall forthwith give notice thereof to all parties or their attorneys. The decision shall become effective upon the date of its filing.

*Note:* Former Rule 227; originally Star Rule \*270, as amended by The Board of Judges, to June 27, 1968.

**Rule \*1041.1**      *Pleadings in Asbestos Cases.*

(A) Master Long Form Complaint.

- (1) Counsel representing plaintiffs in asbestos cases may file a Master Long Form Complaint under the General Asbestos Pleading Numbers. The Master Long Form Complaint shall set forth all theories of recovery and all liability allegations that the counsel filing it expects to advance in any asbestos case. To the greatest extent possible, all counsel regularly representing plaintiffs in asbestos cases should attempt to agree on a single Master Long Form Complaint subscribed to by each of them.
- (2) The Master Long Form Complaint shall sufficiently identify each defendant against whom claims for asbestos related personal injuries are expected to be pursued, and shall include the capacity in which each defendant will be sued.

- (3) Upon approval of a Master Long Form Complaint by the Court, it shall be deemed to apply to all cases subsequently filed by that counsel. Counsel may subsequently file an Amended Master Long Form Complaint which shall then become the designated Master Long Form Complaint for that counsel without leave of Court, provided that no objection to the amendment is made by any party within thirty days of its filing with the Court.
- (4) All theories of recovery and all liability allegations, including allegations of successor or predecessor liability, contained in any Master Long Form Complaint or Amended Master Long Form Complaint shall be automatically deemed denied and at issue as to any and all defendants.

(B) *Short Form Complaint.* Counsel who have filed a Master Long Form Complaint shall file and serve a Short Form Complaint in every asbestos case thereafter, containing the following information:

- (1) The name, address, social security number and date of birth of each plaintiff or decedent;
- (2) A list of the specific defendants against whom the claim is being made. Any defendant not previously identified in the Master Long Form Complaint must be sufficiently identified in the Short Form Complaint, including the capacity in which the defendant is being sued. Counsel are reminded of the provisions of Pa.R.C.P. 1023(b) regarding certification of the contents of pleadings, and are cautioned that no defendant may be included in a Short Form Complaint unless, after reasonable inquiry, it is believed in good faith that there exists a valid cause of action against that defendant;
- (3) A complete employment history, including location and type of employment;
- (4) The asbestos exposure dates with identification of corresponding employment;
- (5) To the extent possible, the name and manufacturer of each asbestos-containing product to which exposure is alleged;
- (6) With respect to each product identified in paragraph (5) above, the inclusion dates of exposure and the job site at which the exposure occurred;
- (7) The disease claimed, along with date of diagnosis and the date of the plaintiff's first knowledge of the asbestos-related injuries;
- (8) A statement as to whether or not a claim for lost wages is being asserted;
- (9) If appropriate, the date of death, the authority of the named plaintiff to bring the suit and the persons entitled to recover under the relevant statutes; and
- (10) If appropriate, any unusual allegations or jurisdictional statements specific to the particular case,

which are not included in the Master Long Form Complaint.

(C) *Responsive Pleadings by Defendants.*

- (1) In response to each Master Long Form Complaint, the defendants regularly named in asbestos cases may collectively assert all affirmative defenses on behalf of all defendants. This shall be accomplished by the filing of a pleading known as the defendants' Master New Matter. The defendants' Master New Matter shall be filed with the Court within thirty (30) days of the filing of the Master Long Form Complaint to which it responds. The Master New Matter shall be deemed incorporated as a response to each Short Form Complaint filed under each Master Long Form Complaint. Defendants need not file responses to the liability allegations of the Master Long Form Complaint, including allegations of citizenship, place of doing business, and predecessor or successor liability, as they are automatically deemed denied and at issue. The defendants' Master New Matter may be supplemented or amended at subsequent times by the filing of a Supplemental Master New Matter.
- (2) (a) In response to a Short Form Complaint, each defendant may file an Entry of Appearance and Answer to Complaint, containing the name, address and telephone number of counsel representing each defendant, together with a statement incorporating the Master New Matter. Without waiver of the right to file preliminary objections or to contest jurisdiction or service, the filing of an Entry of Appearance and Answer to Complaint by a defendant shall be deemed to constitute a denial of all theories of recovery and all liability and damage allegations contained in the Master Long Form Complaint and the Short Form Complaint and an assertion of all defenses contained in the Master New Matter.
- (b) If a complaint other than a Short Form Complaint is used by a plaintiff in a particular action, a defendant may file a Short Form Answer which responds only to allegations concerning the identity of the answering defendant. All remaining allegations shall be deemed denied and at issue. The Short Form Answer may set forth affirmative defenses by way of new matter, may incorporate by reference the defendants' Master New Matter, or may include any combination of both.
- (3) A defendant may file preliminary objections, but any objections to personal jurisdiction, venue or service shall be deemed to have been waived unless they are filed within ninety (90) days after service of the complaint.
- (4) Claims for contribution or indemnity by and among the defendants shall be implied and need not be asserted in a Short Form Answer. All such claims

shall be deemed denied without the necessity of filing a reply.

- (5) All new matter shall be deemed denied by all parties without the necessity of filing a reply.

(D) *Joinder of Additional Defendants.*

- (1) An additional defendant joined by one defendant shall be deemed to have been joined by all defendants without the necessity of any further pleadings.
- (2) Joinder of additional defendants shall be by means of a Short Form Joinder Complaint which shall consist of the following information:
  - (a) Identification of each additional defendant, including the capacity in which each additional defendant is being joined.
  - (b) A statement in the following form:
 

You are hereby joined as an additional defendant in this action and it is asserted that you are alone liable to the plaintiff, jointly and severally liable to the plaintiff and/or liable to the original defendants for contribution and/or indemnification.
  - (c) The legal theory upon which each additional defendant is being joined if other than an alleged common law right to contribution or indemnity.
- (3) A copy of the plaintiff's complaint or Short Form Complaint shall be attached to the Short Form Joinder Complaint.
- (4) The Short Form Joinder Complaint must be filed and served in accordance with the Pennsylvania Rules of Civil Procedure.
- (5) A party joined as an additional defendant may file an Entry of Appearance and Answer to Complaint in accordance with the provisions of paragraph (C) (2)(a) above, which shall constitute a denial of all liability and damage allegations of the joinder complaint and the plaintiff's complaint and shall also serve to assert all defenses set forth in the defendants' Master New Matter.
- (6) An additional defendant may file a Short Form Answer to the joinder complaint in accordance with the provisions of paragraph (C)(2)(b) above which responds only to allegations concerning the identity of the additional defendant. All remaining allegations shall be deemed denied and at issue. The Short Form Answer may set forth affirmative defenses to the joinder complaint and the plaintiff's complaint by new matter, may incorporate by reference the defendants' Master New Matter, or may include any combination of both.
- (7) In response to a Short Form Joinder Complaint, an additional defendant may file preliminary objections in accordance with the limitations set forth in paragraph (C)(3) above.

- (8) Claims for contribution or indemnity against all other defendants and additional defendants shall be implied and need not be asserted in a Short Form Answer.
- (9) An additional defendant may join other additional defendants under the same procedures set forth above for joinder by an original defendant.
- (E) *Prospective Effect.* This rule shall have no effect on the rights of parties in actions where the pleadings were closed prior to the implementation of the procedures set forth herein.
- (F) *Permissive Pleadings.* Notwithstanding any provision of this rule, any party may file and serve upon any other party any pleading containing any claim or defense permitted under the Pennsylvania Rules of Civil Procedure.

*Note:* Original Order dated July 30, 1986 in In Re: Asbestos Litigation, October Term, 1986, no. 0001. Former Rule \*1019.1 renumbered and amended \_\_\_\_\_, 2019, effective \_\_\_\_\_, 2019.

**Rule 1300**      ***Voluntary High-Low Common Pleas Court Arbitration.***

(A) Program.

- (1) This program provides for prompt and final determination of cases pending in Common Pleas Court in Philadelphia or disputes, not yet in suit, which would properly be the subject of a suit in Common Pleas Court in Philadelphia, if not resolved, in which money damages are sought, without limitation to the amount involved except as set forth in paragraph (B)(4) below.
- (2) Submission of a case to the program is entirely voluntary and all parties must agree to the arbitration, which agreement shall be binding.
- (3) The arbitration shall be conducted by a judge of the Court of Common Pleas of Philadelphia County. Where counsel for all parties agree on one or more judges before whom they wish to have their case submitted, the case will be referred to one of those judges or that judge by the Deputy Court Administrator for Civil Listings. Otherwise, the case will be referred to the next judge available.
- (4) All parties shall agree in advance, that the decision of the Arbitration Judge will be final and binding.
- (5) The arbitration hearings will be scheduled on an expedited basis once a case is submitted to the program.
- (6) This program can also be used for multi-party litigation and, there are no monetary limits on the amount in controversy.

(B) Procedures.

- (1) The parties shall prepare and submit a stipulation to the Deputy Court Administrator for Civil Listings, Room 380 City Hall, submitting the case

to Voluntary Common Pleas Court Arbitration. There will be a filing fee of eleven dollars. The stipulation shall be signed by counsel for all parties, if represented, or the party or his insurance carrier, if unrepresented, and shall clearly indicate that the decision of the Arbitration Judge shall be final and binding and the award may be entered as a judgment of record without right of appeal. The stipulation shall also include any agreements with respect to the conduct of the arbitration hearing.

- (2) The parties shall submit to the Deputy Court Administrator for Civil Listings, at the time the stipulation is submitted in a sealed envelope, the defendant's(s') highest offer and the plaintiff's(s') lowest demand. These figures shall be submitted on one piece of paper signed by all parties. The sealed envelope shall be retained by the Deputy Court Administrator for Civil Listings, not transmitted to the Arbitration Judge, until after the arbitration is completed and the Arbitration Judge has reached his decision.
- (3) The conduct of the hearing shall be subject to the rules applicable to Common Pleas Court Arbitration in Philadelphia County, unless the parties agree, in advance, in writing, to some other procedure. The Arbitration Judge will determine whether the arbitration is being conducted within the fair scope of any such agreement. Parties are encouraged to agree to the use of medical reports and medical bills and property damage estimates, stipulations as to the testimony of witnesses, etc., in lieu of live testimony.
- (4) The Arbitration Judge shall reach his decision within 24 hours of the arbitration hearing. The Arbitration Judge shall decide on an amount to be awarded, if any, to each party. The sealed envelope will then be opened by the Deputy Court Administrator for Civil Listings. If the judge's figure is closest to the plaintiff's(s') lowest demand, the plaintiff's(s') lowest demand shall be awarded to the plaintiffs and the defendants shall pay that amount. If the judge's figure is closest to the defendant's(s') highest offer, the defendant's(s') highest offer shall be awarded to the plaintiff(s) and the defendant(s) shall pay that amount. If the judge finds in favor of the defendant(s), the plaintiff(s) shall be awarded the amount of the defendant's(s') highest offer. If the judge's figure is exactly halfway between the plaintiff's(s') lowest demand figure and the defendant's(s') highest offer figure, the figure arrived at by the judge shall be awarded to the plaintiff(s), and the defendant(s) shall pay that amount. A check or draft in the amount of the defendant's(s') highest offer may be sent to the plaintiff(s) at the time the stipulation is filed or at any time prior to the arbitration hearing and the amount of that check or draft shall be considered as a credit for the defendant(s) with respect to the arbitration award.

- (5) Any rules dealing with prejudgment delay damages, interests and/or costs shall be deemed to be waived by submission of a case to this program.
- (6) Interest at the rate of 10 percent per annum, compounded daily, shall be assessed on all awards not paid within 30 days of the date of the award.

*Note:* Former Rule 190; adopted by The Board of Judges, originally General Court Regulation 82-7, effective July 23, 1982; amended by General Court Regulation 83-4 effective December 5, 1983.

**Rule \*1301      *Compulsory Arbitration.***

Except as provided hereunder, all cases having an amount in controversy, exclusive of interest and costs, of \$50,000 or less shall be assigned to the Compulsory Arbitration Program of the Court of Common Pleas of Philadelphia County. The following cases shall not be assigned to the Compulsory Arbitration Program:

- (a) Cases involving title to real estate;
- (b) Any other case type which may be excluded from time to time by Order of the Administrative Judge of the Trial Division.

*Editor’s Note:* Amended May 18, 1995, effective July 17, 1995. Administrative Docket No. 08 of 1998 may impact this rule.

**Rule \*1302      *Appointment of Arbitrators. Qualifications. Disqualification.***

- (a) The Director of the Arbitration Center shall maintain an Arbitrator List of attorneys who have been deemed to be qualified to sit as Arbitrators in the Compulsory Arbitration Program of the Court of Common Pleas of Philadelphia County.
- (b) Minimum criteria for qualification includes membership of the Bar of the Supreme Court of Pennsylvania, active practice of law for a minimum of one year subsequent to admission to the Bar of the Supreme Court of Pennsylvania for panelists and five years for Chairpersons, maintenance of a principal office in Philadelphia County, attendance of a court-approved arbitration seminar and trial of a civil case in any forum in the Commonwealth of Pennsylvania. The Director of the Arbitration Program shall make available an Application for Initial Certification as Arbitration Panelist form, substantially in the form set forth hereunder, requiring the necessary information for determination of qualifications.

*See Forms Index*

- (c) Attorneys not currently enrolled on the Arbitration List may request to be included thereon by completing the Court supplied Application Form.
- (d) The Director of the Arbitration Center from the Court-approved Arbitration List panelists and chairperson for assignment.

- (e) Arbitrators no longer maintaining their principal office in Philadelphia County are required to promptly advise the Director of the Arbitration Center in writing.
- (f) The Director of the Arbitration Center may, from time to time, strike the name of an attorney from the Arbitrator List in accordance with this rule.
- (g) An issue concerning disqualification of an Arbitrator from a particular case shall first be raised with the Arbitration Panel and, if appropriate, with the Director of the Arbitration Center.

*Editor’s Note:* Amended May 18, 1995, effective July 17, 1995. Amended May 15, 2014, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

**Rule \*1303      *Scheduling of Arbitration Hearings. Relistings. Consolidations.***

- (a) *Scheduling of Arbitration Hearings.*
  - (1) *Scheduling Upon Commencement of Action.* All Arbitration Writs of Summons and complaints must be accompanied by a Civil Cover Sheet as required by Phila. Civ. R. \*205.2(a)(9). All Arbitration Writs of Summons and Complaints must state in upper case on the upper, right-hand corner of the cover page “THIS IS AN ARBITRATION CASE. AN ASSESSMENT OF DAMAGES HEARING IS/IS NOT REQUIRED.” The date, time and place of the Arbitration hearing shall be entered on the Civil Cover Sheet or initial pleadings, and on all service copies, together with the following statement: “This matter will be heard by a board of arbitrators at the time, date and place specified but, if one or more parties is not present at the hearing, the matter may be heard at the same time and date before a judge of the court without the absent party or parties. There is no right to a trial de novo on appeal from a decision entered by a judge.”
  - (2) *Scheduling After Commencement of Action.* In the event a case is scheduled for an Arbitration hearing after the commencement of the action, and the initial pleadings do not contain the statement authorized by Pa.R.C.P. No. 1303(a)(2), the case will nonetheless be subject thereto provided the Order or Notice scheduling such Arbitration hearing contains the following statement: “This matter will be heard by a board of arbitrators at the time, date and place specified but, if one or more parties is not present at the hearing, the matter may be heard at the same time and date before a judge of the court without the absent party or parties. There is no right to a trial de novo on appeal from a decision entered by a judge.”
- (b) *Deferred Status.*
  - (1) *To Obtain Deferred Status.*
    - (i) *Initial Filing.* If the plaintiff requests that the case be placed on a “Deferred” status, the

request and code number, if any, shall be inserted by plaintiff on the Civil Cover Sheet and on the first page of the Writ of Summons or Complaint. The Office of Judicial Records shall not assign an Arbitration Hearing date and the case shall be placed on Deferred Status.

**Explanatory Note:** The Court will presently defer cases if they are “Uninsured or Underinsured Motorist Savings Actions,” or Underinsured Motorist Benefits (Act 6). See *English v. Pa.F.R.A.C.P., et al*, 427 Pa. Super. 105, 628 A.2d 847 (1993), allocatur granted, 645 A.2d 1316 (1994). Additional categories may be added by the Court from time to time.

- (ii) *Other Than Initial Filing.* Any party may seek deferral of a case by filing a Miscellaneous Arbitration Application substantially in the form set forth hereunder, setting forth the reasons for the Deferral. Before filing the Miscellaneous Arbitration Application with the Arbitration Center, counsel shall comply with the instructions set forth on said Form.

**Explanatory Note:** Cases may be deferred due to, inter alia, bankruptcy, imprisonment, or military status of any party.

**Explanatory Note:** Before filing the Miscellaneous Arbitration Application with the Arbitration Center, a copy of the Application must be mailed/delivered/faxed to opposing counsel and unrepresented parties who may submit a Response to the Applicant prior to the date the Application may be filed. See Miscellaneous Arbitration Application and Response Forms and Instructions.

***See Forms Index***

(2) *Removal of Deferred Status.*

- (i) *Uninsured/Underinsured Savings Actions.* When the uninsured/underinsured statutory or common law arbitration claim is concluded or settled, the case shall be removed from Deferred Status and a compulsory arbitration hearing shall be scheduled as follows:
- (1) *Duties of Filing Attorney.* The filing attorney shall advise the Arbitration Center that the case is ripe for a Compulsory Arbitration hearing, the underlying uninsured/underinsured claim having been concluded by filing a Praeceptum substantially in the Form set forth hereunder within 90 days of the conclusion of the underlying uninsured/underinsured claim.

***See Forms Index***

- (2) *Compulsory Arbitration Hearing Order.* Upon having been informed that the case is ripe for a Compulsory Arbitration Hearing, the Court shall issue an Order substantially in the form set forth hereunder scheduling the Compulsory Arbitration Hearing, and the case shall proceed in the same manner as any other Compulsory Arbitration case. It shall be plaintiff’s

responsibility to immediately serve the subrogee and the defendant(s) with notice of the Arbitration hearing date and to file an Affidavit of service with the Office of Judicial Records prior to the Arbitration Hearing date.

***See Forms Index***

- (3) *Applicable to Existing Cases.* The procedure set forth above shall apply to all cases previously deferred which become ripe for scheduling of Compulsory Arbitration hearings subsequent to the effective date of this rule.
- (ii) *Other Deferred Cases.* When any party advises the Director of the Arbitration Center that the reasons for the deferral are no longer applicable, or upon Order of Court, the case shall be removed from Deferred Status and appropriate action shall be taken.
- (c) *Continuances.* All requests for continuances shall be made as provided herein.
- (1) *General Rule.* A request for continuance of an Arbitration hearing will be granted only for reasons set forth in Pa.R.C.P. 216 and are provided herein. A continuance may be granted provided a sufficient reason exists, and further provided that the continuance is consistent with the orderly and expeditious determination of Compulsory Arbitration cases.
- (2) *Written Request.* All requests for continuance of Arbitration Hearings shall be in writing on a Continuance & Deferral Application substantially in the form set forth hereunder and shall be filed in accordance with President Judge Administrative Order No. 2009-02. The Continuance & Deferral Application shall set forth the specific reasons for the continuance and the legal basis for the continuance, as provided in Pa.R.C.P. 216 and this rule, the position of all other counsel or unrepresented parties and the date and time mutually convenient to all parties, for the relisting of the Arbitration Hearing.

***See Forms Index***

- (3) *Procedure for Obtaining Continuance.* A Continuance & Deferral Application shall be filed with the Arbitration Center and as may otherwise be provided in the Application. A copy of the Continuance & Deferral Application must be served, as required, on opposing counsel and unrepresented parties contemporaneously with its filing with the Arbitration Center. Upon receipt of the Continuance & Deferral Application, the Director of the Arbitration Center, or his/her designee, shall rule on the request, and, in appropriate cases, may

consult with the Administrative Judge of the Trial Division or his/her designee. There shall be no hearing or oral argument on the request for continuance or a ruling thereon, and the ruling is not subject to judicial scrutiny at the request of any party.

*Explanatory Note:* Counsel are cautioned not to call or write the Arbitration Center for status of the Application, or to request “reconsideration” in the event the Continuance Application is denied.

- (4) *Emergency Applications.* No continuance will be granted if requested within 14 days prior to the date of the Arbitration hearing except for “emergency” reasons, which could not have been anticipated prior thereto. An Arbitration hearing may be continued for the following “emergency” reasons:
- (i) The illness of counsel of record or a party. The Applicant must specify the name of the person who is ill and set forth whether he or she is confined at home or in a hospital, must specify the nature of the illness, the name of the treating physician, and the earliest anticipated date he or she will be able to attend a rescheduled Arbitration hearing;
  - (ii) Counsel’s assignment to trial in a non-arbitration case on the same date and time. In such cases, counsel must first advise the trial judge of the conflict and in the event the trial judge declines to hold commencement of the trial in abeyance until conclusion of the Arbitration hearing, counsel must immediately file an Arbitration Application setting forth the Court Term and Number, and caption of the case, and name of trial judge, a copy of the trial scheduling Order and the specific efforts made to postpone the conflicting case.
  - (iii) The failure to appear of subpoenaed witnesses. Provided the subpoena was served sufficiently in advance of the Arbitration Hearing date; and
  - (iv) There are outstanding Petitions or Motions. However, no Motions or Petitions shall be accepted by Motion Court or Discovery Court if filed or scheduled less than 45 days prior to the date of the scheduled Arbitration Hearing date, unless authorized pursuant to Phila. Civ. R. \*1303(h).
- (5) *Non-Emergency Applications.* All other requests for continuance. An Arbitration Application for continuance of an Arbitration Hearing for non-emergency reasons must be filed at least 30 days prior to the scheduled Arbitration hearing date. Arbitration Hearings may be continued, inter alia, for the following non-emergency reasons:
- (i) Service not effected upon original defendant(s)/additional defendant(s). The Applicant shall set forth with particularity facts supportive of contention that due diligence

has been exercised in attempting service, shall set forth the specific dates of the attempted service, shall attach a statement that substituted service could not have been obtained prior to the date of the Arbitration Hearing, and shall certify that a Motion for Alternative Service has been filed pursuant to Pa.R.C.P. 430 and Phila. Civ. R. \*430.1.

- (ii) For any reason justifying the grant of an emergency application;
  - (iii) Due to the recent joinder of a party. The Applicant shall set forth the date of the joinder, date of service, and additional time (not to exceed 90 days) necessary for the filing of a responsive pleading and for completion of discovery.
  - (iv) Failure to produce a material witness or party for deposition; provided, however, a Discovery Court Order was issued compelling the deposition of such party which Order has not been complied with, and there is insufficient time to obtain an appropriate Order from Discovery Court.
  - (v) At defendant’s request, where delay in the filing or service of the Complaint has prevented the defendant from filing, prior to the Arbitration Hearing date, an Answer or other responsive pleading (or joinder of additional parties) within the time permitted by rules of court; and where delay in service of the complaint or disposition of petitions or motions have substantially delayed discovery.
  - (vi) Due to the vacation schedule of defendant or defendant’s counsel provided that defendant was not given at least 90 days’ notice of the Arbitration Hearing date. Only one continuance will be granted for this reason.
  - (vii) For any other appropriate reason not inconsistent with the orderly and expeditious determination of compulsory arbitration cases.
- (6) *Rescheduled Dates.* Arbitration hearings shall be rescheduled as soon as possible based on the reason for the continuance, but efforts shall be made to reschedule the case for hearing within 60 days of the initial date.
- (7) *Rescheduling by Agreement of All Parties.* If all parties agree to reschedule an Arbitration Hearing and they file with the Arbitration Center an application in the form attached hereto, the Arbitration Hearing will be rescheduled provided that the application is filed no later than noon, at least two business days prior to the originally scheduled hearing, and further provided that all parties agree on a specific rescheduled date which must be within two weeks of the original scheduled hearing date. All counsel and unrepresented parties must sign the application and the case shall be deemed

rescheduled only upon the execution of the order by the manager of the Arbitration Center. Requests for rescheduling pursuant to this order may only be made one time per case.

***See Forms Index***

- (d) *Advancement.* A hearing date may be advanced by filing a Continuance & Deferral Application with the Director of the Arbitration Program which shall allege that all parties agree to the advancement to a specific date.

*Explanatory Note:* Although the Court disfavors the grant of continuances, a conflict with a scheduled Arbitration Hearing date may be resolved by agreeing to an earlier Arbitration Hearing.

- (e) *Consolidation.* Consolidated actions shall be heard on the date assigned to the last filed consolidated case.

- (f) *Transfer from Major List to Arbitration.*

(1) *By Any Party.*

- (a) *Within Six Months of the Date of Filing.* When a case is initially filed as a major case, plaintiff may, within six months of its commencement, transfer the case to compulsory arbitration without leave of Court by filing a praecipe with the Office of Judicial Records who shall assign an arbitration hearing no sooner than 60 days hence. Plaintiff must serve notice of the arbitration hearing date upon all counsel of record and any unrepresented parties within 48 hours after receipt of the order scheduling the arbitration hearing and shall file an Affidavit of Service with the Office of Judicial Records.

- (b) *After Six Months or Date of Filing.* When a case is initially filed as a major case and, after the expiration of six months from the commencement date of the action, any party desires to transfer the case to compulsory arbitration, a petition must be filed with the Office of Judicial Records and the Motion Court to Transfer from Major to Arbitration. The petition shall be assigned to the Supervising Program Judge (defined hereunder). If the petition to Transfer From Major Arbitration is granted, the Office of Judicial Records shall assign an arbitration hearing no sooner than 60 days hence. Counsel for a party requesting transfer must serve notice of the hearing date upon all counsel of record and any unrepresented parties within 48 hours after receipt of the order scheduling the arbitration hearing and shall file an Affidavit of Service with the Office of Judicial Records.

- (2) *Supervising Program Judge.* The Supervising Program Judge for purposes of subsection (1)b. above is defined as the team leader of the respective Day Backward and Day Forward Team to which the

case is assigned. If the case has not been specifically assigned, the Motion Court Judge will be the Supervising Judge.

- (3) *By Court.* As provided by Pa.R.C.P. 1021(d).

*Explanatory Note:* Pa.R.C.P. 1021(d) provides that “The Court on its own motion or motion of any party may by discovery, pre-trial conference, hearing or otherwise, determine the amount actually in controversy and enter an order of reference to arbitration.” The within local rule does not limit the Court from transferring appropriate cases to compulsory Arbitration.

- (g) *Transfer from Arbitration to another Program.* A case filed as an Arbitration case may only be transferred to another Program, and listed for trial in accordance with management procedures established pursuant to Philadelphia Civil Rule \*215, as follows:

- (1) upon the filing of a Counterclaim which seeks monetary damages in excess of the arbitration limits; or

*Note: Robert Half International Inc. v. Marlton Technologies, Inc.*, 2006 Pa. Super 145; 902 A.2d 519 (2006), requires that upon the filing of a counterclaim seeking monetary damages in excess of the arbitration limits, the case be transferred from the Compulsory Arbitration Program. The transfer will be made automatically upon the filing of a counterclaim which seeks monetary damages in excess of the arbitration limits.

It is suggested that the counterclaimant make the Office of Judicial Records aware that the case previously assigned to the Arbitration Program must be transferred to another Program due to the amount of the monetary damages sought in the counterclaim. Upon implementation of electronic filing, the Electronic Filing System will contain the necessary functionality to effectuate the transfer.

- (2) upon the filing of a Motion to Transfer from the Compulsory Arbitration Program to another Program and the entry of an order transferring such case to another Program, subject to the payment of the applicable fee, if any.
- (h) *Filing of Motions.* Pre-Trial Motions and Petitions, including discovery motions, will not be accepted by Motion Court or Discovery Court if attempted to be filed less than 45 days prior to the date of the scheduled Arbitration hearing, unless approved by the Court. Such approval may only be obtained by filing a Miscellaneous Arbitration Application form accompanied by a copy of the Motion or Petition and self-addressed stamped envelopes to all counsel and interested parties. If the Application is granted, the Motion or Petition may be filed as provided in the Order.
- (i) *Settlement Prior to Hearing Date.* Counsel shall give written notification to the Director of the Arbitration Center of any settlement prior to the Arbitration Hearing date and an appropriate Order will be issued. Failure to provide written notice prior to the Arbitration Hearing date will result in the entry of a judgment of non pros if the parties fail to appear for the Call of the List and hearing.
- (j) *Failure to Serve Initial Pleading or Complaint.* If a complaint has not been filed or served by the date of the

scheduled hearing, the case will be assigned to an arbitration panel with instructions to enter an award in favor of the defendant, unless counsel has complied with Phila.Civ.R. \*1303(b)(5)(i) and obtained a relisting prior to the Arbitration Hearing date.

**Editor's Note:** Source of Rule \*1303(b): No. 01 Administrative Docket, issued April 22, 1993, and General Court Regulation-Trial Division No. 93-5. Source of Rule \*1303(c): General Court Regulation-Trial Division No. 93-3. Amended by the Board of Judges, on May 18, 1995, effective July 17, 1995. Source of Rule \*1303(f): General Court Regulation 95-2, amended by Board of Judges on November 16, 1995, effective February 12, 1996. Source of Rule \*1303(c)(7): Administrative Docket No. 1 of 1996, issued January 25, 1996, effective immediately (on a trial basis until further order of court). Source of Rules \*1303 (g) and (j): President Judge General Court Regulation No. 96-4, amended by the Board of Judges on November 26, 1996, effective January 13, 1997. Further amended November 19, 1998, effective January 1, 1999; amended May 20, 2004, effective July 26, 2004; amended November 15, 2007, effective January 7, 2008. Amended May 15, 2014, effective thirty (30) days after publication in the *Pennsylvania Bulletin*. President Judge Administrative Order No. 2009-02 may impact this rule.

#### **Rule \*1303.1** *Continuances of Arbitration Hearings.*

**Editor's Note:** Rescinded May 18, 1995, effective July 17, 1995. See Rule \*1303(c).

#### **Rule \*1304** *Arbitration Facilities. Call of the List.*

- (a) *Situs of Arbitration Hearings.* Hearings shall be heard in facilities provided by the Court of Common Pleas of Philadelphia County at times designated by the Administrative Judge of the Trial Division or Manager of the Arbitration Center.
- (b) *Call of the List.* There shall be a call of the list of all cases scheduled for the same time. If all parties fail to appear, without having previously obtained a continuance or advised the Director of the Arbitration Center in writing that the case has settled, the case shall be non-prossed.

**Editor's Note:** Adopted by the Board of Judges on May 18, 1995, effective July 17, 1995. Amended May 15, 2014, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

#### **Rule \*1305** *Conduct of Arbitration Hearings.*

- (a) *Rules of Evidence.* Supervisory Authority. Hearings shall be conducted in accordance with the established rules of evidence, liberally construed to promote justice. The Arbitration panel, which may seek the assistance of the Director of the Arbitration Center, shall have the general powers of a court including the power to determine the admissibility of evidence, to permit testimony to be offered by depositions and to decide the law and the facts of the case submitted to them. Provided, however, that the Arbitration panel may not continue any case assigned to it.
- (b) *Admissibility of Documents.*
- (1) *General Rule.* In addition to the evidence permitted by Pa.R.C.P. 1305(b), expert witness reports,

description of expert qualifications, attorney's certifications as to time and hourly rates in claims where counsel fees are involved, bills, and records of businesses which ordinarily would be admissible if authenticated by a custodian of records shall be received in evidence without further proof provided that at least 20 days' written notice of the intention to offer such documents in evidence was given to any adverse party accompanied by a copy of the item to be introduced. Provided, however, that if the documents were previously produced, they need only to be identified within the above time period.

#### (2) *Subrogation.*

- (i) *Defendant fails to Appear.* In subrogation cases, where the defendant or counsel for the defendant does not appear at the Arbitration hearing to contest a case, the plaintiff shall be permitted to offer into evidence, without further proof, a sworn statement from the plaintiff attesting to the injuries and damages that the plaintiff sustained as a result of the incident which gave rise to this litigation. This statement shall be accepted by the panel of arbitrators in lieu of live testimony of the plaintiff and shall be given the weight that the arbitrators deem appropriate. The sworn statement shall be admitted into evidence only if it has been forwarded to the defendant or defendant's counsel at least 20 days prior to the arbitration hearing.
- (ii) *Pennsylvania Assigned Claims Plan Cases.* In cases involving the Pennsylvania Assigned Claims Plan, the Plan may offer into evidence proof of the amount of the Plan's payment of medical bills and uninsured motorist benefits on behalf of and/or to the claimant. It is for the arbitrators to decide whether the amount of said payment was fair, reasonable and proper and whether the defendant shall be responsible for paying said sum. In no case shall the amount of the arbitration award exceed the amount of payments which include loss adjustment costs made by the Pennsylvania Assigned Claims Plan.
- (iii) *Other.* In all cases other than those involving the Pennsylvania Assigned Claims Plan, the Release and Trust Agreement signed by the claimant(s)/plaintiff(s) shall not be admissible as evidence to prove damages.

(c) *Delay Damages.* The procedure set forth in Pa.R.C.P. 238(d)(1) shall apply.

(d) *Witness Fees.* Witness fees and costs shall be in the same amount, and shall be paid by the same party or parties, as provided for the trials in the Court of Common Pleas of Philadelphia County.

**Editor's Note:** Amended by the Board of Judges on May 18, 1995, effective July 17, 1995. Amended May 15, 2014, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

**See Forms Index**

**Rule \*1308 Compensation of Arbitrators.**

All arbitrators, whether panel members or chairpersons, shall be compensated at a rate of \$225.00 per day or \$125.00 for one-half day of service, or as may otherwise be established by the Administrative Judge of the Trial Division.

**Editor's Note:** Amended by the Board of Judges on May 18, 1995, effective July 17, 1995. Amended May 15, 2014, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

**Note:** On September 20, 2006, Administrative Judge James J. Fitzgerald III directed an increase to the compensation payable to arbitrators to \$225 for a full day and \$125 for one-half day of service effective January 2, 2007.

**Rule \*1309 Procedure for Terminating Inactive Arbitration Cases Pursuant to Pa.R.J.A. 1901.**

- (a) *Publication of Inactive Cases.* The Court shall periodically publish in *The Legal Intelligencer* a list of Arbitration cases which have been inactive for two years or more with notice that these cases will be marked "Terminated under Pa.R.J.A. 1901" unless within 30 days from the date of publication in *The Legal Intelligencer* either party or counsel files an Active Status Certificate, substantially in the Form attached hereto, with the Arbitration Center certifying that the case is active.

**See Forms Index**

- (b) *Reinstatement of Terminated Case.* Any case terminated after notice by publication in *The Legal Intelligencer* may be reinstated by the Court, for good cause shown, upon the filing of a Petition and Answer thereto, if any.

**Editor's Note:** Source: General Court Regulation Nos. 93-1 and 93-6. Adopted by the Board of Judges on May 18, 1995, effective July 17, 1995.

**Rule \*1531 Emergency Judge Procedures.**

- (A) The Common Pleas Court shall, for every week of the year, schedule one weekend Emergency Judge and one evening Emergency Judge to be available on call to handle emergency matters such as bail modification applications and injunction applications of an emergency nature during weekends and evenings.
- (B) The weekend Emergency Judge shall hear emergency civil and criminal matters on the weekend (5 p.m. Friday through 9 a.m. Monday) and emergency criminal matters during the evening and early morning hours of the weekdays following the weekend emergency duty (Monday through Thursday, 5 p.m. until 9 a.m. of the next day). The evening Emergency Judge shall hear

emergency civil matters during weekday evenings and early mornings (Monday through Thursday, 5 p.m. until 9 a.m. of the next day).

- (C) The Court Administrator shall make available the name and telephone number of the particular Emergency Judge to the City Hall switchboard (686-1776) which will redirect all emergency calls to the appropriate number.

**Note:** Former Rule 20; adopted by The Board of Judges, originally General Court Regulation 72-1, January 11, 1972 and General Court Regulation 73-6, July 25, 1973.

**Rule \*1533 Notice of Assignment for Benefit of Creditors.**

Assignees for the benefit of creditors and receivers shall, after they have entered security, give notice of their appointment to every creditor and party in interest of whom they have knowledge, and shall also publish notice thereof once a week for three successive weeks.

**Note:** Former Rule 175; originally Star Rule \*1533.

**Rule \*1569 Partition Proceedings—Master's Report.**

A Master appointed under Pa.R.C.P. 1558(b) shall not file his report as required under Pa.R.C.P. 1569(a) until ten (10) days after he has notified all the parties who appeared before him that it is subject to their inspection and that it will be filed on a given date, unless written exceptions be filed with the Master before that time. If exceptions are filed, the Master shall re-examine the subject and amend his report, if, in his opinion, the exceptions are well founded in whole or in part.

**Note:** Former Rule 125; originally Star Rule \*1569, adopted June 7, 1956.

**Rule \*1900 Protocols to Mark, Inventory, Store and Retain Exhibits, Physical Evidence and Electronic Evidence Offered During Trials and Evidentiary Hearings in the Philadelphia Court of Common Pleas, Trial Division.**

- (a) *General Rule.* Counsel and unrepresented parties shall pre-mark all exhibits, physical evidence and electronic evidence used and offered during trials or evidentiary hearings, which shall be inventoried, filed and retained as provided in this rule.
- (b) *Physical evidence.* Physical evidence and oversized exhibits must be photographed by the proponent, converted to letter sized pdf and appropriately marked and produced during the trial or evidentiary hearing. Unless otherwise provided by the presiding judge, at the conclusion of the trial or evidentiary hearing, physical evidence shall be returned to the police in criminal cases and to counsel in civil cases for safekeeping as required

by any applicable retention schedule, statute, rule, regulation or policy, or until further order of court.

- (c) *Electronic Evidence.* Electronic evidence, including audio or video exhibits, must be produced by the proponent on a USB drive, or other medium specified by the Office of Judicial Records from time to time, together with any associated player.
- (d) *Confidential Documents.* Confidential documents offered as Exhibits shall be produced with a Confidential Document form as provided by the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts (UJS Case Records Policy) as provided in Phila.R.J.A. No. \*401. Confidential Documents are not accessible by the public.
- (e) *Confidential Information.* Documents offered as Exhibits which contain confidential information listed in the UJS Case Records Policy shall be produced in a Redacted Format and Unredacted Format as provided in Phila.R.J.A. No. \*401. Unredacted Documents which contain confidential information are not accessible by the public.
- (f) *Sealed Documents.* Any documents the presiding judge deems necessary to seal will not be accessible by the public.
- (g) *Exhibit List.* At the conclusion of the trial or evidentiary hearing, designated court staff shall inventory all exhibits and evidence, whether documentary, physical, electronic, audio, video or otherwise, and whether admitted or marked for identification. Any oversize exhibit, physical evidence or visual evidence not previously converted to letter size pdf format as provided in subsection (b) shall be photographed and/or converted to pdf letter size and marked. Each Exhibit and piece of evidence shall be clearly marked and placed on the Exhibit List which shall be reviewed and approved by the presiding judge, filed of record and copies provided to all parties.
- (h) *Uploading Exhibits and Evidence.* Exhibits and evidence shall be made part of the record as follows:
  - (1) *Trial Division, Civil:* within five (5) days of the conclusion of the trial or evidentiary hearing, counsel for each proponent of the exhibits and evidence shall upload their documentary exhibits through the Electronic Filing System and, if not already done, provide to the Office of Judicial Records any USB drive with audio or video evidence, as provided in this rule. The Office of Judicial Records shall either upload the contents of any USB drive to a documentary-evidentiary program, or retain any USB drive as required by any applicable retention schedule, statute, rule, regulation or policy, or until further order of court.
  - (2) *Trial Division, Criminal:* at the conclusion of the trial or evidentiary hearing, the Office of Judicial

Records shall take possession of all exhibits and any USB drive, shall upload all documentary exhibits through the Electronic Filing System and shall either upload the contents of any USB drive to a documentary-evidentiary program, or retain any USB drive as required by any applicable retention schedule, statute, rule, regulation or policy, or until further order of court.

- (3) *Self-represented Parties:* at the conclusion of the trial or evidentiary hearing, designated court staff shall take possession of all exhibits and USB drive proffered by self-represented Parties and shall deliver them to the Office of Judicial Records which shall either upload the contents of any USB drive to a documentary-evidentiary program, or retain any USB drive as required by any applicable retention schedule, statute, rule, regulation or policy, or until further order of court.

*Editor's Note:* Adopted November 22, 2017, effective January 6, 2018.

#### **Rule 1915.11-1 Parenting Coordination.**

- (a) *Appointment of a Parenting Coordinator.*
  - (1) If the parties agree on a Parenting Coordinator or if the Court deems one necessary, an order will be entered in accordance with Pa.R.C.P. No. 1915.22.
  - (2) If the parties cannot agree on the selection of a Parenting Coordinator, the Court shall require each party to identify their choice(s) along with the hourly rate of each to all parties. If the parties cannot agree, the Court will select a Parenting Coordinator. The roster of the Court's approved Parenting Coordinators and their stated hourly rates shall be posted at <http://www.courts.phila.gov/>
  - (3) Any party seeking a pro bono appointment under section (d)(3) below must file with the Clerk of Family Court a Petition to Proceed In Forma Pauperis for the appointment of a Parenting Coordinator within three (3) days of the appointment order absent good cause shown. The In Forma Pauperis form can be found at [www.philacourts.us](http://www.philacourts.us).
- (b) *Roster of Approved Parenting Coordinators.*

An attorney or mental health professional seeking to be included on the Philadelphia County Court's roster of qualified individuals to serve as a Parenting Coordinator shall submit an affidavit to the Administrative Family Court Judge or her/his designee together with the following:

- (1) An affidavit attesting the applicant has qualifications found in Pa.R.C.P. No. 1915.11-1;
- (2) An acknowledgment the applicant has read the Association of Family and Conciliation Courts (AFCC) Parenting Coordinator guidelines and the American Psychological Association (APA) Parenting Coordinator Guidelines; AFCC Parenting Coordinator guidelines are posted at

<https://www.afccnet.org/Portals/0/AFCCGuidelinesforParentingcoordinationnew.pdf> and the APA Parenting Coordinator Guidelines are posted at <https://www.apa.org/pubs/journals/features/parenting-coordination.pdf>; and

- (3) An acknowledgment that for every 2 fee generated Parenting Coordination assignments, he or she must accept one pro bono assignment (up to 12 hours per pro bono case).
- (c) *Parenting Coordinator Recommendations*
- (1) Parenting Coordinators shall file their Summary and Recommendations with the Clerk of Family Court within two (2) days after the last communication with the parties on the issues in accordance with Pa.R.C.P. No. 1915.11-1(f)(2).
  - (2) *Objections to Parenting Coordinator's Recommendation(s) and Petition for a Record Hearing.*
    - a. A party objecting to the Recommendations must file with the Clerk of Family Court an original and copy of their Objections and a Petition for a Record Hearing before the Court within five days of service of the Summary and Recommendations together with a Proof of Service upon all parties and the Parenting Coordinator.
    - b. The Clerk of Family Court shall promptly forward the original Objections and Petition to the Administrative Family Court Judge's Office for assignment to the parties' Family Court Judge to promptly schedule a record hearing. If the matter is an emergency or time-sensitive and the assigned Family Court Judge is not available, the matter will be assigned to the Emergency Custody Judge to conduct a record hearing.
  - (3) *Court Review of Parenting Coordinator's Recommendations.*

If no objections to the Parenting Coordinator's Recommendation are filed with the Clerk of Family Court within five days of service of the Summary and Recommendation, the Clerk of Family Court shall transmit the file to the Administrative Family Court Judge's Office to be assigned to the appointing Judge, if available, within a reasonable time, otherwise to any Family Court Judge for review of the Recommendation in accordance with Pa.R.C.P. No. 1915.11-1(f)(4).

(d) *Fees*

Parties who request the appointment of a Parenting Coordinator or who are identified by the Court as benefiting from the appointment of a Parenting Coordinator shall pay the Parenting Coordinator as follows:

- (1) His or her hourly rate, which may be up to \$300.00 an hour; provided, however, if the parties combined

monthly net income exceeds the mandatory minimum set forth in the Support Guidelines at Pa.R.C.P. No. 1910.16-2(e)(2) (currently \$30,000 per month), the Court may adjust the hourly rate;

- (2) Absent good cause, each party shall pay up to \$500 as an initial retainer (\$1,000.00 total) which may be reallocated as deemed appropriate by the Parenting Coordinator or the Court. See Pa.R.C.P. No. 1915.22, Order at ¶ 8.
  - (3) If a party is granted In Forma Pauperis status by the Court specifically for the appointment of a Parenting Coordinator, the Parenting Coordinator so appointed shall serve on a pro bono (no fee) basis, up to 12 hours.
  - (4) A Parenting Coordinator must accept one pro bono appointment for every two fee generating appointments.
- (e) Philadelphia County, through its Administrative Family Court Judge, has entered into a Five County Compact on Parenting Coordination with Chester County, Montgomery County, Delaware County and Bucks County. The terms of that Compact are incorporated herein, and a copy is annexed hereto.

*Editor's Note:* Adopted March 25, 2019, effective 30 days after publication in the *Pennsylvania Bulletin*.

***See Forms Index***

**Rule \*2039**      ***Procedure to Compromise, Settle, Discontinue or Distribute Funds in Matters Involving Minors. See also Pa.R.C.P. Nos. 2039 and 2206.***

- (A) *When Petition Required.* No action in which a minor is a party shall be compromised, settled, or discontinued except after the filing of a Petition for Approval of the Compromise, Settlement, Discontinuance, or Distribution. In addition to the requirements set forth in this Rule, Petitions for Approval of dispositions of Wrongful Death or Survival Actions involving minors must also comply with Pa.R.C.P. No. 2206.
- (B) *Situs of the Filing of the Petition.* Petitions for Approval of Settlements in which minors have an interest shall be served on all parties of record and filed as follows:
  - (1) For cases in which a civil action has been initiated in the Trial Division, Petitions for Approval of Settlements shall be electronically filed with the Office of Judicial Records, Civil (formerly the "Prothonotary"). Upon expiration of the Response period, the Petition shall be assigned to a Judge of the Orphans' Court Division for disposition and the entry of an appropriate final appealable order. The Order shall be docketed and served on all interested parties by the Office of Judicial Records.

- (2) For cases in which a civil action has not been initiated in the Trial Division, and no civil docket number has been assigned, Petitions for Approval of Settlement shall be electronically filed with the Clerk of the Orphans' Court Division. Upon expiration of the Response period, the Petition shall be assigned to a Judge of the Orphans' Court Division for disposition and the entry of an appropriate final appealable order. The Order shall be docketed and served on all interested parties by the Clerk of the Orphans' Court Division.
- (C) *Appointment of Guardian ad Litem.* In any case where a minor has an interest and the Settlement Judge or the Trial Judge has not appointed a guardian ad litem, and the Judge of the Orphans' Court Division believes it necessary that the minor be represented separately, the Orphans' Court Judge shall appoint a guardian ad litem, who shall be an attorney in good standing who is admitted to practice law in the Commonwealth of Pennsylvania, to represent the minor's interest. A guardian ad litem may be appointed if required by the circumstances without regard to whether a guardian of the person or of the estate of the minor has been appointed.
- (D) *Contents of the Petition.* The Petition shall be substantially in the form set forth hereunder, and shall:
  - (1) Set forth the date of birth and the address of the minor, the names and addresses of the minor's parents, the names and addresses of all guardians of the person, the estate and/or ad litem of the minor, and the appointing court, and a factual recitation of the salient facts which form the basis of the cause of action;
  - (2) State the terms of the settlement, including the specific provisions of any annuity, if applicable, including the credit rating of the entity assuming responsibility for future payments, the present cost of the annuity, as well as the schedule and amount of periodic and lump sum payments;
  - (3) State the amount of counsel fees and provide an itemization of the expenses to be paid out of settlement proceeds;
  - (4) State whether a lien or claim has been raised on behalf of any medical care provider or payer, including the Department of Human Services and Medicare; and
  - (5) Contain or be accompanied by the following:
    - (a) A written report of a physician setting forth the present physical and mental condition of the minor;
    - (b) A verified statement by the parent(s) of the minor and the guardian of the person or guardian

- ad litem, if appointed, certifying the present physical and mental condition of the minor; and a copy of the decree appointing the guardian of the person or guardian ad litem;
- (c) A verified statement by the parent(s) of the minor and the guardian of the estate or guardian ad litem, if appointed, certifying approval of the proposed settlement and distribution thereof; and a copy of the decree appointing the guardian of the estate or guardian ad litem;
- (d) If the minor is sixteen (16) years of age or older and not otherwise incapacitated, his or her written approval of the proposed settlement and distribution thereof;
- (e) A statement of the professional opinion of counsel as to the reasonableness of the proposed settlement and the basis for such opinion;
- (f) If there is to be an allocation between adults and minors or among minors, a statement of the amounts allocated to each party and specific reasons for such proposed allocation;
- (g) If a guardian ad litem has been appointed, a statement of the professional opinion of the guardian ad litem as to the reasonableness of the proposed allocation, and the basis for such opinion. The guardian ad litem shall give specific reasons for his or her approval or disapproval of any proposed allocation of the proceeds;
- (h) Statement of the final lien amount from the Department of Human Services;
- (i)(1) Statement of the amount paid by Medicare for medical costs as reflected on the relevant Explanations of Benefits received from the Medicare payers and Conditional Payment letters received from the Medicare Secondary Payer Recovery Contractor. This amount should constitute the maximum Medicare reimbursement exposure to the plaintiff for which funds from the settlement amount should be reserved. Should the actual reimbursement to Medicare be less than the reserved amount as a result of allowances by Medicare for the fees, costs or other factors, the balance shall be distributed in accordance with the Court Order, and shall be reflected in the Affidavit of Compliance filed with the Court.
- (2) In the event that compliance with the Court's Order is not fully accomplished, the attorney shall describe the extent of compliance and

any reasons for delay in an Affidavit filed within 60 days of the entry of the Order. A subsequent Affidavit shall be filed upon complete satisfaction of the terms of the Order.

- (j) Statement from medical care providers agreeing to compromised amount(s), if any;
- (k) Any other information which might be helpful for the orderly disposition of the Petition; and
- (l) A proposed Order for Distribution, etc., substantially in the form set forth in (K) below.

(E) *Release of Defendants.* After Court approval of the gross amount of the settlement, but before Court approval of the distribution, the plaintiff may sign a release to discharge the settling defendant and the Court may issue an Order to Settle, Discontinue and End to the settling parties. If plaintiff releases and discharges a defendant pursuant to this subsection, defendant's draft or check shall be made payable to the plaintiff and to counsel for the plaintiff and the payees shall deposit the draft or check into a separate insured interest-bearing escrow account or the attorney's Interest on Lawyers Trust Account (IOLTA), pending the issuance of an Order of Distribution by the Court. This subsection is intended to allow prompt tender of settlement proceeds independent of issues involving distribution.

(F) *Counsel Fees.* The proposed Order of Distribution shall include an award of counsel fees. The standard for the award of counsel fees in the representation of minors is that such fees must be reasonable in accordance with the guidelines set forth in Rule 1.5 of the Rules of Professional Conduct, Counsel are advised to maintain time records.

Counsel fees of one-third (1/3) of the net fund recovered may be considered reasonable, subject to the approval of the Court. The net fund is calculated by subtracting the attorney's reimbursable costs from the gross settlement amount. Counsel fees shall be reduced by the amount of collateral payments received as counsel fees for representation involving the same matter from third parties.

(G) *Personal Appearances.* The Judge of the Orphans' Court to whom the Petition is assigned may, at his or her discretion, require the personal appearance of the minor, the parents, the guardians of the estate and/or of the person, the guardian ad litem, the physicians, or any other relevant party, as well as the production of any other evidence deemed necessary for the disposition of the Petition.

(H) *Compliance with Court Order and Proof of Deposit.* Within sixty (60) days of the entry or a final Order of Distribution, counsel shall electronically file an Affidavit of Compliance with the Court maintaining the docket of

the matter, either with the Office of Judicial Records or with the Clerk of the Orphans' Court Division. The Affidavit of Compliance shall certify compliance with the Order, attach a copy of the said Order and shall submit proof of deposit in the restricted account, annuity, structured settlement or trust. The Affidavit of Compliance shall be substantially in the form set forth in (K) below.

(I) *Distribution to Minors Pursuant to Pa.R.C.P. No. 2039.* Funds allocated by a Court approved minor's compromise, settlement, or by a judgment entered upon a verdict, for the direct benefit of a minor shall be payable only to the guardian of the estate of the minor appointed by the Court with jurisdiction over the minor, with the express authorization of the Court as to payment of counsel fees and expenses or posting of security.

In the alternative, the Court may:

(1) Order, as provided in Pa.R.C.P. No. 2039(b)(1), an amount not in excess of twenty-five thousand dollars (\$25,000) to be paid for the benefit of the minor to the parent(s) as natural guardian(s), or to the guardian of the person of a minor;

(2) Order, as provided in Pa.R.C.P. No. 2039(b)(2),

(a) Any amount be deposited in one or more restricted savings account(s) in the name of the minor, in federally insured banks or savings institutions having an office in Philadelphia County, each not to exceed the insured amounts, with the funds payable to the minor upon majority. The savings account shall be titled and restricted as follows:

\_\_\_\_\_, a minor, not to be withdrawn before the minor attains majority, except for the payment of local, state and federal income taxes on the interest earned, or upon Order of Court.

Or

(b) the purchase of one or more restricted certificate(s) of deposit in the name of the minor, in federally insured banks or savings institutions having an office in Philadelphia County, each not to exceed the insured amounts, with the funds payable to the minor upon majority. The certificate shall be titled and restricted as follows:

\_\_\_\_\_, a minor, not to be redeemed except for renewal in its entirety, not to be withdrawn, assigned, negotiated, or otherwise alienated before the minor attains majority, except upon Order of Court.

(3) Approve an agreement providing for a structured settlement in the manner provided by Pa.R.C.P. No. 2039(b)(3).

- (4) Approve a trust agreement to be executed by a corporate fiduciary in the manner provided by Pa.R.C.P. No. 2039(b)(4).

(J) *Service. Notice. Proof of Service.* Petitions filed pursuant to Section (B)(1) above shall be served as provided in Phila.Civ.R. \*205.4(f)(7) and Pa.R.C.P. No. 205.4(g). Petitions filed pursuant to Section (B)(2) above shall be noticed as provided in Pa.O.C. Rule 3.5. Service to all parties in interest not effectuated through the Electronic Filing System shall be effectuated by mailing Notice of the filing of the Petition and a copy of the Petition by first-class United States mail, postage prepaid. Proof of Service and a copy of the notice shall be appended to the Petition or filed after service, as appropriate.

(K) *Forms.* See Appendix.

**See Forms Index**

*Editor’s Note:* Adopted May 25th, 2016. Effective immediately.

**Rule \*2039.1 [Rescinded]**

**Rule \*2039.2 Motions for Allowance.**

- (A) Motions for Allowance in those cases where a guardian has been appointed by the Orphans’ Court Division shall be filed directly with such Division.
- (B) All other Motions for Allowance, irrespective of which Judge approved the original settlement, shall be filed with the Office of Judicial Records. All such motions shall be decided by the Motion Court Judge, except where the original Judge has retained jurisdiction of the case. Said motions are not subject to any further filing requirements of the Motion Court under Philadelphia Civil Rule \*208.3(b)(3).
- (C) The motion shall include:
  - (1) The facts and circumstances surrounding the origination of the minor’s fund;
  - (2) A chronological statement of all prior requests for allowance, including the reasons therefor, the amounts thereof, and the disposition;
  - (3) The age of the minor at the time the fund was created and the minor’s present age;
  - (4) The original amount of the minor’s fund and the present balance of same; and
  - (5) The circumstances and reasons supporting the request for allowance.
- (D) All motions shall be accompanied by:
  - (1) A proposed Order;
  - (2) A copy of the Original Motion for Compromise and the Order of Distribution;
  - (3) Copies of all prior requests for allowances and the Orders with respect to same;

- (4) Substantiating documentation to support the proposed request; and
- (5) A consent filed by the movant.

*Note:* Former Rule 166, adopted by the Board of Judges, September 15, 1983.

*Editor’s Note:* [Existing Rule \*2039.2 remains unchanged.] General Court Regulation no. 92-1 date of Order October 2, 1992; amended May 20, 2004, effective July 26, 2004; amended November 15, 2007, effective January 7, 2008. Joint General Court Regulation No. 97-1 may impact this rule.

**Rule \*2064 Procedure to Compromise, Settle, Discontinue or Distribute Funds in Matters Involving Incapacitated Persons. See also Pa.R.C.P. Nos. 2064 and 2206.**

- (A) *When Petition Required.* No action in which an incapacitated person is a party shall be compromised, settled, or discontinued except after the filing of a Petition for Approval of the Compromise, Settlement, Discontinuance or Distribution. In addition to the requirements set forth in this Rule, Petitions for Approval of dispositions of Wrongful Death or Survival Actions involving incapacitated persons must also comply with Pa.R.C.P. No. 2206.
- (B) *Situs of the Filing of the Petition.* Petitions for Approval of Settlements in which incapacitated persons have an interest shall be served on all parties of record and filed as follows:
  - (1) For cases in which a civil action has been initiated in the Trial Division, Petitions for Approval of Settlements shall be electronically filed with the Office of Judicial Records, Civil (formerly the “Prothonotary”). Upon expiration of the Response period, the Petition shall be assigned to a Judge of the Orphans’ Court Division for disposition and the entry of an appropriate final appealable order. The Order shall be docketed and served on all interested parties by the Office of Judicial Records.
  - (2) For cases in which a civil action has not been initiated in the Trial Division, and no civil docket number has been assigned, Petitions for Approval of Settlement shall be electronically filed with the Clerk of the Orphans’ Court Division. Upon expiration of the Response period, the Petition shall be assigned to a Judge of the Orphans’ Court Division for disposition and the entry of an appropriate final appealable order. The Order shall be docketed and served on all interested parties by the Clerk of the Orphans’ Court Division.
- (C) *Appointment of Guardian ad Litem.* In any case where an incapacitated person, de facto or de jure, has an interest and the Settlement Judge or the Trial Judge has not appointed a guardian ad litem, and the Judge of the Orphans’ Court Division believes it necessary that the

incapacitated person be represented separately, the Orphans' Court Judge shall appoint a guardian ad litem, who shall be an attorney in good standing who is admitted to practice law in the Commonwealth of Pennsylvania, to represent the incapacitated person's interest. A guardian ad litem may be appointed if required by the circumstances without regard to whether a guardian of the person or of the estate of the incapacitated person has been appointed.

(D) *Content of the Petition.* The Petition shall be substantially in the form set forth hereunder, and shall:

- (1) Set forth the date of birth and the address of the incapacitated person, the names and addresses of all guardians of the person, the estate and/or ad litem of the incapacitated person, and the appointing court, and a factual recitation of the salient facts which form the basis of the cause of action;
- (2) State the terms of the settlement, including the specific provisions of any annuity, if applicable, including the credit rating of the entity assuming responsibility for future payments, the present cost of the annuity, as well as the schedule and amount of periodic and lump sum payments;
- (3) State the amount of counsel fees and provide an itemization of the expenses to be paid out of settlement proceeds;
- (4) State whether a lien or claim has been raised on behalf of any medical care provider or payer, including the Department of Human Services and Medicare; and
- (5) Contain or be accompanied by the following:
  - (a) A written report of a physician setting forth the present physical and mental condition of the incapacitated person;
  - (b) A verified statement by the guardian of the person of the incapacitated person, or the guardian ad litem, if appointed, certifying the present physical and mental condition of the incapacitated person, and a copy or the decree appointing the guardian of the person or guardian ad litem;
  - (c) A verified statement by the guardian of the estate of the incapacitated person, or the guardian ad litem, if appointed, certifying approval of the proposed settlement and distribution thereof; and a copy of the decree appointing the guardian of the estate or guardian ad litem;
  - (d) A statement of the professional opinion of counsel as to the reasonableness of the proposed settlement and the basis for such opinion;

(e) If there is to be an allocation between a sui juris adult and an incapacitated person, a statement of the amounts allocated to each party and specific reasons for such proposed allocation;

(f) If a guardian ad litem has been appointed, a statement of the professional opinion of the guardian ad litem as to the reasonableness of the proposed allocation, and the basis for such opinion. The guardian ad litem shall give specific reasons for his or her approval or disapproval of any proposed allocation of the proceeds;

(g) Statement of the final lien amount from the Department of Human Services;

(h)(1) Statement of the amount paid by Medicare for medical costs as reflected on the relevant Explanations of Benefits received from the Medicare payers and Conditional Payment letters received from the Medicare Secondary Payer Recovery Contractor. This amount should constitute the maximum Medicare reimbursement exposure to the plaintiff for which funds from the settlement amount should be reserved. Should the actual reimbursement to Medicare be less than the reserved amount as a result of allowances by Medicare for the fees, costs or other factors, the balance shall be distributed in accordance with the Court Order, and shall be reflected in the Affidavit of Compliance filed with the Court.

(2) In the event that compliance with the Court's Order is not fully accomplished, the attorney shall describe the extent of compliance and any reasons for delay in an Affidavit filed within 60 days of the entry of the Order. A subsequent Affidavit shall be filed upon complete satisfaction of the terms of the Order.

(i) Statement from medical care providers agreeing to compromised amount(s), if any;

(j) Any other information which might be helpful for the orderly disposition of the Petition; and

(k) A proposed Order of Distribution, etc., substantially in the form set forth in (K) below.

(E) *Release of Defendants.* After Court approval of the gross amount of the settlement, but before Court approval of the distribution, the plaintiff may sign a release to discharge the settling defendant and the Court may issue an Order to Settle, Discontinue and End to the settling parties. If plaintiff releases and discharges a defendant pursuant to this subsection, defendant's draft or

check shall be made payable to the plaintiff and to counsel for the plaintiff and the payees shall deposit the draft or check into a separate insured interest-bearing escrow account or the attorney's Interest on Lawyers Trust Account (IOLTA), pending the issuance of an Order of Distribution by the Court. This subsection is intended to allow prompt tender of settlement proceeds independent of issues involving distribution.

- (F) *Counsel Fees.* The proposed Order of Distribution shall include an award of counsel fees. The standard for the award of counsel fees in the representation of incapacitated persons is that such fees must be reasonable in accordance with the guidelines set forth in Rule 1.5 of the Rules of Professional Conduct. Counsel are advised to maintain time records.

Counsel fees of one-third (1/3) of the net fund recovered may be considered reasonable, subject to the approval of the Court. The net fund is calculated by subtracting the attorney's reimbursable costs from the gross settlement amount. Counsel fees shall be reduced by the amount of collateral payments received as counsel fees for representation involving the same matter from third parties.

- (G) *Personal Appearances.* The Judge of the Orphans' Court to whom the Petition is assigned may, at his or her discretion, require the personal appearance of the incapacitated person, the guardians of the estate and/or of the person, the guardian ad litem, the physicians, or any other relevant party, as well as the production or any other evidence deemed necessary for the disposition of the Petition.

- (H) *Compliance with Court Order and Proof of Deposit.* Within sixty (60) days of the entry of a final Order or Distribution, counsel shall electronically file an Affidavit of Compliance with the Court maintaining the docket of the matter, either with the Office of Judicial Records or with the Clerk of the Orphans' Court Division. The Affidavit of Compliance shall certify compliance with the Order, attach a copy of the said Order and shall submit proof of deposit in the restricted account, annuity, structured settlement or trust. The Affidavit of Compliance shall be substantially in the form set forth in (K) below.

- (I) *Distribution to Incapacitated Persons Pursuant to Pa.R.C.P. No. 2064.* Funds allocated by a Court approved incapacitated person's compromise, settlement, or by a judgment entered upon a verdict, for the direct benefit of an incapacitated person shall be payable only to the guardian of the estate of the incapacitated person appointed by the Court with jurisdiction over the incapacitated person, with the express authorization of the Court as to payment of counsel fees and expenses or posting of security.

In the alternative, the Court may:

- (1) Order, as provided in Pa.R.C.P. No. 2064(b)(1), an amount not in excess of twenty-five thousand dollars (\$25,000) to be paid for the benefit of the incapacitated person to the guardian of the person of the incapacitated person;

- (2) Order, as provided in Pa.R.C.P. No. 2064(b)(2),

- (a) any amount be deposited in one or more restricted savings account(s) in the name of the incapacitated person, in federally insured banks or savings institutions having an office in Philadelphia County, each not to exceed the insured amounts. The savings account shall be titled and restricted as follows:

\_\_\_\_\_, an incapacitated person, not to be withdrawn, except for the payment of local, state and federal income taxes on the interest earned, or upon Order of Court.

Or

- (b) the purchase of one or more restricted certificate(s) of deposit in the name of the incapacitated person, in federally insured banks or savings institutions having an office in Philadelphia County, each not to exceed the insured amounts. The certificate shall be titled and restricted as follows:

\_\_\_\_\_, an incapacitated person, not to be redeemed except for renewal in its entirety, not to be withdrawn, assigned, negotiated, or otherwise alienated, except upon Order of Court.

- (3) Approve an agreement providing for a structured settlement in the manner provided by Pa.R.C.P. No. 2064(b)(3).

- (4) Approve a trust agreement to be executed by a corporate fiduciary in the manner provided by Pa.R.C.P. No. 2064(b)(4).

- (J) *Service. Notice. Proof of Service.* Petitions filed pursuant to Section (B)(1) above shall be served as provided in Phila.Civ.R. \*205.4(f)(7) and Pa.R.C.P. No. 205.4(g). Petitions filed pursuant to Section (B)(2) above shall be noticed as provided in Pa.O.C. Rule 3.5. Service to all parties in interest not effectuated through the Electronic Filing System shall be effectuated by mailing Notice of the filing of the Petition and a copy of the Petition by first-class United States mail, postage prepaid. Proof of Service and a copy of the notice shall be appended to the Petition or filed after service, as appropriate.

- (K) *Forms.* See Appendix.

**See Forms Index**

*Editor's note:* Adopted May 25, 2016, effective immediately.

**Rule \*2205 Notice—Wrongful Death Actions.**

- (A) The notice prescribed in Pa.R.C.P. 2205 shall name the decedent, and state the Court, term and number of the action, and that if the person to whom it is addressed objects to the authority of the plaintiff to maintain the action, such person may petition the Court to remove the plaintiff and to substitute as a new plaintiff either any person entitled by law to recover damages in the action or a personal representative of the decedent.
- (B) An affidavit of service of such notice shall be filed in the Office of Judicial Records within five days after service or as soon thereafter as the registered return receipt, signed by the person to whom it is addressed, is returned to the plaintiff.

*Note:* Former Rule 104; originally Star Rule \*2205.

**Rule \*2206 Petitions for Approval of Settlements and Distribution in Wrongful Death/Survival Actions. See also Pa.R.C.P. No. 2206 and Phila. Civ.R. \*2039 and \*2064.**

- (A) *When Required.*
- (1) *Survival Action.* Court approval of settlements in Survival Actions brought for the benefit of the estate is always required.
  - (2) *Wrongful Death.* If a Wrongful Death claim, brought for the benefit of the appropriate intestate heirs, is raised, Court approval of settlements shall be required only where a minor or incapacitated person has an interest.
  - (3) *Combined Wrongful Death and Survival Actions.* If both Wrongful Death and Survival Action claims are raised, Court approval is required.
- (B) *Situs of the Filing of the Petition.*
- (1) Petitions for Approval of Settlements in Wrongful Death or Survival Actions shall be electronically filed with the Office of Judicial Records, Civil (formerly the “Prothonotary”) if suit was commenced in the Trial Division. Upon expiration of the Response period, the Petition shall be assigned to the Administrative Judge of the Orphans’ Court Division for disposition and the entry of an appropriate final appealable Order. The Order shall be docketed and served on all interested parties by the Office of Judicial Records.
  - (2) If Settlement is reached prior to the commencement of a lawsuit and no Civil Docket number has been assigned, the Petition for Approval shall be electronically filed with the Clerk of the Orphans’ Court Division. Upon expiration of the Response period, the Petition shall be assigned to the Administrative Judge of the Orphans’ Court Division for disposition and the entry of an appropriate final appealable

Order. The Order shall be docketed and served on all interested parties by the Clerk of the Orphans’ Court Division.

- (C) *Notice to Government Agencies.* Notice of the settlement must be given to the Pennsylvania Department of Revenue and the Pennsylvania Department of Human Services.
- (D) *Contents of Petition.* The Petition shall be substantially in the form set forth hereunder, and shall:
- (1) Set forth the date of death of the decedent, the name of the personal representative of the estate and the county of appointment. A copy of the Decree of the Register of Wills granting Letters and a copy of the Will, if any, must be attached;
  - (2) State the terms of the settlement, including the specific allocation as between Wrongful Death and Survival Action, name the Wrongful Death beneficiaries and the amount each is to receive, name the intestate heirs of decedent as of the date the cause of action arose, state reasons why the settlement and allocation are reasonable, and otherwise comply with Pa.R.C.P. No. 2206.
  - (3) In the event a portion of the settlement is payable through the purchase of an annuity, set forth the credit rating of the entity assuming responsibility for future payment, the present cost of the annuity, as well as the schedule and amount of periodic and lump sum payments;
  - (4) Show compliance with Pa.R.C.P. Nos. 2205 and 2207, and set forth the name, date of birth, relationship and address of decedent’s intestate heirs (as set forth in 20 Pa.C.S. §§ 2201 et seq.), and the name, date of birth and address of all beneficiaries under the Will, who must be served with a copy of the Petition;
  - (5) State whether a lien or claim has been raised on behalf of any medical care provider or payer, including the Department of Human Services and Medicare; and
  - (6) Contain or be accompanied by the following:
    - (a) Statement of the final lien amount from the Department of Human Services;
    - (b) (1) Statement of the amount paid by Medicare for medical costs as reflected on the relevant Explanations of Benefits received from the Medicare payers and Conditional Payment letters received from the Medicare Secondary Payer Recovery Contractor. This amount should constitute the maximum Medicare reimbursement exposure to the plaintiff for which funds from the settlement amount should be reserved. Should

the actual reimbursement to Medicare be less than the reserved amount as a result of allowances by Medicare for the fees, costs or other factors, the balance shall be distributed in accordance with the Court Order, and shall be reflected in the Affidavit of Compliance filed with the Court.

- (2) In the event that compliance with the Court's Order is not fully accomplished, the attorney shall describe the extent of compliance and any reasons for delay in an Affidavit filed within 60 days of the entry of the Order. A subsequent Affidavit shall be filed upon complete satisfaction of the terms of the Order.
- (c) Approval of the allocation from the Pennsylvania Department of Revenue;
- (d) A statement of the professional opinion of counsel as to the reasonableness of the proposed settlement and the basis for such opinion.
- (e) A statement setting forth the following:
- (i) the time between the injury and death;
  - (ii) whether or not the decedent was conscious, and the circumstances prior to his or her death;
  - (iii) the amount of the medical and funeral bills;
  - (iv) the amount of the decedent's wage loss;
  - (v) the age, employment and any other circumstances of any potential beneficiaries under the Wrongful Death Act.
- (f) Proof of service of the initiation of the wrongful death action as required under Pa.R.C.P. No. 2205 and Phila.Civ.R.\*2205.
- (g) Identification of any other parties who may have a possible interest in the decedent's estate, and list unpaid claims raised, or which are outstanding, in the decedent's estate; and
- (h) A proposed Order, approving the settlement and allocation between wrongful death and survival, substantially in the form set forth in (H) below.
- (E) *Service. Notice. Proof of Service.* Petitions filed pursuant to Section (B)(1) above shall be served as provided in Phila.Civ.R. \*205.4(f)(7) and Pa.R.C.P. No. 205.4(g). Petitions filed pursuant to Section (B)(2) above shall be noticed as provided in Pa.O.C. Rule 3.5. Service to all parties in interest not effectuated through

the Electronic Filing System shall be effectuated by mailing Notice of the filing of the Petition and a copy of the Petition by first-class United States mail, postage prepaid. Proof of Service and a copy of the notice shall be appended to the Petition or filed after service, as appropriate.

- (F) *Compliance with Court Order and Proof of Deposit.* Within sixty (60) days of the entry of a final Order of Distribution, counsel shall electronically file an Affidavit of Compliance with the Court maintaining the docket of the matter, either with Office of Judicial Records or with the Clerk of the Orphans' Court Division. The Affidavit of Compliance shall certify compliance with the Order, attach a copy of the said Order and shall submit proof of deposit in the restricted account, annuity, structured settlement or trust as ordered. The Affidavit of Compliance shall be substantially in the form set forth in (H) below.
- (G) *Release of Defendant.* After Court approval of the gross amount of the settlement, but before Court approval of the distribution, the plaintiffs may sign a release to discharge the settling defendant and the Court may issue an Order to Settle, Discontinue and End to the settling parties. If plaintiff releases and discharges a defendant pursuant to this subsection, defendant's draft or check is to be made payable to all plaintiff(s) and to counsel for plaintiff(s), to be deposited into a separate insured interest-bearing escrow account or the attorney's Interest on Lawyers Trust Account (IOLTA), pending an Order of Distribution from the Court. This subsection is intended to allow prompt tender of settlement proceeds independent of issues involving distribution.
- (H) *Forms.* See Appendix.

***See Forms Index***

*Editor's Note:* Rescinded and replaced May 25, 2016, effective immediately.

**Rule \*2232      *Joinder of Additional Parties.***

- (A)
- (1) Where notice of the pendency of an action to recover damages for an injury, not resulting in death, is given by the defendant under Pa.R.C.P. 2232(a), it shall be given within twenty (20) days after service upon him of the complaint.
  - (2) The notice shall state the Court, term, and number of the action, the parties thereto and its nature, and that the person to whom it is addressed is required to join therein within twenty (20) days after receipt of such notice, or his cause of action will be barred and the action will proceed without him.

- (B) Application under Pa.R.C.P. 2232(b), to drop from the record a party who has been misjoined, or against whom no claim for relief is asserted in the action, shall be by rule to show cause, directed to all other parties.
- (C) Application under Pa.R.C.P. 2232(c), to join as a party any other person who could have joined or have been joined as such in the action, shall be by rule to show cause.

*Note:* Former Rule 103; originally Star Rule \*2232.

**Rule \*2951**      *Judgments by Confession—Affidavit of Non-Military Service Required.*

In any proceeding to confess judgment upon a power of attorney contained in any written instrument, the plaintiff shall be required to comply with paragraph (A) of Philadelphia Civil Rule \*1037.1 with respect to the filing of an affidavit regarding military service. If the Court is of the opinion that the defendant is not in the service or that the defendant's ability to comply with the terms of such written instrument is not materially affected by reason of such service, an order may be issued directing the Office of Judicial Records to enter judgment. If the defendant is found to be in the military service, an attorney shall be appointed to represent the defendant as provided in paragraph (C) of Philadelphia Civil Rule \*1037.1, and the Court may issue an order directing the Office of Judicial Records to enter judgment but containing a stay of execution, unless it shall appear that the defendant's ability to comply with the terms of the written instrument is not materially affected by the military service, in which case the stay may be omitted. The stay of execution may be removed by the Court at any time when, in the opinion of the Court, the plaintiff has complied with these rules and the terms of the Soldiers' and Sailors' Civil Relief Act and such stay is no longer necessary to protect the defendant's interests under the circumstances.

*Note:* Former Rule 105; originally Star Rule \*921.

**Rule \*3123.1**      *Sheriff's Execution—Exemptions.*

It shall be the duty of the Sheriff to give to both parties at least forty-eight (48) hours' notice of the time and place when he will make an appraisal of property which the defendant claims the right to retain as the exemption allowed him by law, and the parties and their attorneys shall have the right to be present when the appraisal is made.

*Note:* Former Rule 360(A); originally Star Rule \*3123.

**Rule \*3129.2**      *Sheriff's Execution—Sale of Real Property.*

Writs of execution for the sale of real estate shall be advertised by the Sheriff once a week for three successive

weeks in The Legal Intelligencer and in one daily newspaper of general circulation in this county; the first advertisement to be not less than twenty-one (21) days before the date of the sale. He shall also post handbills containing the information required by law, one on the real estate to be sold.

*Note:* Former Rule 360(B); originally Star Rule \*3129. General Court Regulation No. 2008-01 and Joint General Court Regulation No. 2008-01 may impact this rule.

**Rule \*3129.2(b)(1)**

- (A) For the purpose of Pa.R.C.P. 3129.2(b)(1), which specifies the contents of the handbills required to be posted by the Sheriff, and for the purpose of Pa.R.C.P. 3129.2(d), which requires the publication in newspapers of the information contained in the handbill, the requirement of "a brief description of the property to be sold, its location any improvements" shall be satisfied, in the case of Residential Properties consisting of four (4) units or less, by providing the following information:
- for "location": the street address of the property with the zip code, extended zip code if available, and ward number;
  - for "a brief description of the property": the approximate size of the property in square feet or acres and the Philadelphia Board of Revision of Taxes (BRT) account number—designated as follows: "BRT # XXXXXXXXXXX"; and
  - for "improvements": the words "Residential Property."
- (B) Plaintiff, when preparing a Writ of Execution for transmission to the Sheriff, shall include therein a description which conforms to the requirements of this Rule.
- (C) The Sheriff's conditions for sale shall provide the following paragraph in bold:

**"Prospective purchasers are directed to the Philadelphia Board of Revision of Taxes (BRT) Website (<http://brtweb.phila.gov>) for a fuller description of the properties listed. Properties can be looked up by the BRT number, which should be cross-checked with the address. Prospective purchasers are also directed to the Philadelphia Department of Records, at Room 154 City Hall, Philadelphia, PA 215-686-1483 and to its Website at <http://philadox.phila.gov>, where they can view the deed to each individual property and find the boundaries of the property. PROSPECTIVE PURCHASERS ARE RESPONSIBLE FOR DETERMINING THE NATURE, LOCATION, CONDITION AND BOUNDARIES OF THE PROPERTIES THEY SEEK TO PURCHASE."**

The Sheriff's condition of sale shall add to the "Explanation" section the following:

The "BRT #" refers to a unique number assigned by the Philadelphia Board of Revision of Taxes to each

property in the City for the purpose of assessing it for taxes. This number can be used to obtain descriptive information about the property from the BRT Website.

**Explanatory Comment**

The Pennsylvania Rules of Civil Procedure require that notice of the sale of Real Property provide inter alia, “a brief description of the property to be sold, and any improvements . . .” In Philadelphia County, these descriptions have generally included a description of the property that includes the metes and bounds defining the lot. Such a description, sufficient under the holdings of the Pennsylvania Supreme Court in *Shimkus v. Klimatis*, 377 Pa. 546 (Pa. 1954), and *Senge v. Border*, 319 Pa. 481, 483 (Pa. 1935), is not necessary and results in descriptions that are lengthy and uninformative. See *Nutt v. Berlin Smokeless Coal & Clay Mining Co.*, 262 Pa. 417 (Pa. 1918) (Advertisement which simply refers to the number of the warrant of a tract of land is a sufficient description). The length of the descriptions results in unnecessary costs being borne by the judgment creditors initiating the sale or by the judgment debtors. This situation is particularly problematic when the advertising costs become an obstacle to a homeowner preventing the sale through reinstatement of the mortgage. The metes and bounds description is also not helpful in that it does not necessarily provide meaningful information regarding the type of property that is being sold and has resulted in confusion for buyers. This Rule seeks to remedy both of those problems as it relates to the sale of Residential Properties consisting of four (4) or fewer dwelling units by permitting a notice that is both shorter and more informative than the metes and bounds description currently being used, thereby saving costs and reducing potential confusion.

*Editor’s Note:* Adopted February 16, 2006, effective 30 days after publication in the *Pennsylvania Bulletin*.

**Rule \*3133.1 Fair Value Act.**

- (A) Petitions under 42 Pa.C.S §8103 to establish the fair market value of real property bought in by a plaintiff at a Sheriff’s sale shall:
- (1) Name as respondents the debtors, obligors and guarantors, and any other persons who may be directly or indirectly liable to the petitioner for the payment of the debt, with the addresses of such persons to the extent that such addresses are known to the petitioner or are ascertainable upon reasonable inquiry and an affidavit stating that the petitioner does not know and after reasonable inquiry has been unable to ascertain the residence or business addresses of the others;
  - (2) State the location and description of the real property sold;
  - (3) State the fair market value of the property;
  - (4) State the date of the Sheriff’s sale;
  - (5) State the date of entry and the amount of the judgment entered in the proceeding and the amount of the interest due thereon to the date of the Sheriff’s sale and the costs of the proceedings upon which the said judgment was obtained; and
  - (6) Include an itemized statement of all prior liens, costs, taxes and municipal claims not discharged by the sale, and the amount of any such items paid at distribution on the sale.

- (B) No petition will be allowed, nor return date fixed by the Court, unless the petition shall set forth all matters provided for in paragraph (A) above.
- (C) In all cases where the Sheriff has made a return of n.e.i. or not found as to any respondent named in the petition, the Sheriff without further order of the Court shall accomplish service by publishing once a week for two successive weeks both in *The Legal Intelligencer* and one newspaper of general circulation in Philadelphia County, the last such publication to appear at least fifteen days prior to the day fixed for the hearing of such petition, a notice to the respondent or respondents not previously served of the filing of the petition and the date fixed for hearing thereon.

*Note:* Former Rule 365; originally Star Rule \*914.

**Rule \*3135 Sheriff’s Execution—Deed to Real Property.**

Writs of execution must be returned and filed before the acknowledgment of the Sheriff’s Deed for the real estate sold by virtue thereof.

*Note:* Former Rule 360(C); originally Star Rule \*3135.

**Rule \*3201.1 Sheriff’s Notice to Non-Judgment Debtors Re: Personal Property Levies and Attachment.**

- (A) *Non-Judgment Debtor.* A “Non-Judgment” is a person who is not a judgment debtor in the particular action which execution is being attempted.
- (B) *Form of Notice.* The Writ of Execution Notice prepared by judgment holders and currently served as part of the Writ of Execution in connection with personal property levies and attachment shall include information concerning the rights of third parties whose property has become subject to levy or attachment. The Notice, to be prepared by execution creditors, shall substantially conform with the form Notice attached as Exhibit “A.”
- (C) *Personal Property Levies—Property Claim, Certifications*
- (1) When judgment holders execution against personal property (e.g., household goods), file a Writ of Execution with the Office of Judicial Records, they shall include, together with any other papers required to be served by the sheriff, a captioned Property Claim Notice and a Property Claim form substantially in the form attached as Exhibit “B” and “C” respectively.
  - (2) When the Sheriff performs a levy against personal property, the Sheriff shall provide all adult persons and guardians of minors found residing at the location subject to levy with a captioned Property Claim Notice. The Sheriff shall also make inquiry on the premises to ascertain the names and addresses of all persons who may own personal

property subject to levy, and/or who reside at the location subject to levy. The Sheriff shall prepare a Sheriff's Certification specifying the names and addresses of the persons whom the Sheriff believes, through reasonable inquiry on the premises, reside or own property at the location where personal property is subject to levy. The Sheriff's Certification shall substantially conform with the form Certification attached hereto as Exhibit "D."

- (3) Within five days of the Sheriff's levy, the Sheriff shall send a copy of the Sheriff's Certification to the execution creditor by First Class, U.S. Mail, postage prepaid, with a cover letter substantially in the form attached hereto to Exhibit "E."
  - (4) Upon receipt of the Sheriff's Certification, the execution creditor shall send each of the persons named in the Sheriff's Certification a completed Property Claim Notice and a Property Claim form. The execution creditor shall then file a Certificate of Service with the Sheriff certifying that the Property Claim Notice and Property Claim form have been served on all persons listed on the Sheriff's Certification.
  - (5) The Sheriff shall not schedule a Sheriff's Sale of personal property until at least twenty (20) days after the execution creditor has filed a Certificate of Service indicating that the Property Claim Notice and Property Claim form have been served on all persons listed in the Sheriff's Certification.
- (D) *Garnishment of Personal Property—Notice, Form of Petition to Intervene, Filing*
- (1) When the Sheriff makes service of a Writ of Execution on a garnishee, the Sheriff shall serve the garnishee with a Notice to Co-Owner of Attachment of Property and a form Petition to Intervene, Stay and Set Aside Writ of Execution as to Non-Judgment Debtor Property with the instruction that the garnishee within two business days send the Notice and Form Petition to all persons other than the judgment debtor who to the garnishee's knowledge may have an interest in the attached account or property by First Class, U.S. Mail, postage prepaid.
  - (2) Garnishee shall include a captioned Notice to Co-Owner of Attachment of Property (Exhibit "F") and a captioned form Petition to Intervene, Stay and Set Aside Writ of Execution as a Non-Judgment Debtor Property (Exhibit "G") in the package served by the garnishee on the account holders.
  - (3) A non-judgment debtor whose bank account or other property held jointly with a judgment debtor has been affected by an attachment pursuant to a judgment against that debtor may claim immunity of his property from attachment by filing with the Sheriff a Petition to Intervene, Stay and Set Aside Writ of Execution substantially in the form provided by the attached Exhibit "G."

(E) *Application to Proceed In Forma Pauperis.*

- (1) Pre-payment of applicable fees for filing Petitions to Intervene, Stay and Set Aside Writ of Execution shall not be required upon the filing with the Sheriff of an Application to Proceed In Forma Pauperis (Property Claim/Petition to Intervene, Stay and Set Aside Writ of Execution) (hereinafter "IFP Application") Exhibit "H." IFP Applications filed by unrepresented non-judgment debtors in connection with personal property levies (Property Claim Form) will be accepted by the Sheriff subject to the Court's determination as to the grant of the Application at a later date. If the Court shall thereafter deny the Application to Proceed In Forma Pauperis, the petitioner will be required to pay the filing fee.
- (2) The Sheriff shall have available and distribute IFP Applications to the public without charge.

(F) *Hearing—Petition to Intervene, Stay and Set Aside Writ of Execution.*

- (1) When a Petition to Intervene, Stay and Set Aside Writ of Execution is filed, the Sheriff shall immediately set a date, time and place of hearing and file said Petition with the Motion Court of the Court of Common Pleas or with the Court Administration of the Philadelphia Municipal Court, as is appropriate. The Sheriff shall also immediately send a copy of the Petition to the plaintiff execution creditor by First Class, U.S. Mail, postage prepaid.
- (2) The Court shall hear the Petition within five business days and shall promptly dispose of the matter on the testimony, admissions or other evidence.
- (3) Judgment may not be entered against the garnishee pursuant to Pa.R.Civ.P. 3146(b) while a Petition to Intervene, Stay and Set Aside Writ of Execution is pending.
- (4) A petitioner who files a Petition to Intervene, Stay and Set Aside Writ of Execution shall be deemed to have filed a Petition to Intervene in compliance with Pa.R.C.P. 2328, to have filed answers to interrogatories in compliance with Pa.R.C.P. 23145, and to have filed a Petition under Pa.R.C.P. 3121.

- (G) *Sheriff's Sale Handbill—Contents of Notice.* The Sheriff's Sale Handbill shall include the words "All persons other than the above-named judgment debtor who own property located at this address, including property owned jointly with the above-named person, may protect their property by filing a Property Claim at the Office of the Sheriff, (Sheriff's Address), prior to the sale."

***See Forms Index***

*Editor's Note:* Adopted by The Board of Judges, May 17, 1990 General Court Regulation 90.8, effective 30 days after publication in the *Pennsylvania Bulletin*. Amended by the Board of Judges November 15, 1990 General Court Regulation 90-10, effective January 21, 1991.

**Rule \*4003.4** *Depositions—Discovery of Prior Statement.*

- (A) A party who has given a signed or mechanically recorded statement to another party shall not be required to submit to deposition for discovery by such other party with respect to the subject matter of such statement unless he has been furnished with a copy of such statement not less than forty-eight (48) hours prior to the deposition.
- (B) The term “party” as used herein means:
- (1) A party to the litigation;
  - (2) Any officer, director or managing agent of a party; and
  - (3) Any agent or employee of a party where the conduct of such agent or employee is within the subject matter of the issues set forth in the pleadings.
- (C) A “statement” within the meaning of this rule shall include a signed statement, recorded interview or transcript of any such recorded interview; provided, however, that a statement not signed by the party making the same, or a notation concerning what the party is supposed to have said, shall not be considered a “statement” under this rule.

*Note:* Former Rule 144; originally Star Rule \*4011, adopted June 27, 1968.

**Rule \*4003.6** *Discovery and Pre-Trial Procedures in Asbestos Cases.*

In asbestos cases, the following procedures shall apply:

- (A) *Lists of Witnesses.* A list of the names and current addresses of all fact and expert witnesses intended to be called at trial, other than product identification witnesses, shall be served by counsel for each party upon counsel for all other parties on or before the day that the case first appears in the top fifty cases on the trial list. Liability and damages witnesses shall be designated separately on each list. Any person whose name and address has not been so disclosed shall be precluded from testifying in any party’s case in chief unless allowed by the Trial Judge upon timely notice to all counsel upon a showing of good cause for the absence of prior identification and a finding that no prejudice has resulted therefrom.
- (B) *Requests for Admissions.*
- (1) Any party may serve requests for admissions directed to any other party on or before the day that the case first appears in the top fifty (50) cases on the trial list.
  - (2) Within twenty (20) days after service of such a request, each party to whom it is directed shall serve a response in accordance with Pa.R.C.P. 4014. A party shall not deny the truth of a statement in such a request on the ground that it is only partly true; instead,

such party must state to what extent it admits the statement and then may deny or qualify the rest.

- (3) If a party denies a statement on a basis other than for lack of knowledge or information, the denial must be accompanied by a full disclosure of the information tending to support the denial, including the names and addresses of all witnesses having such information.
  - (4) If a party denies a statement on the basis of lack of knowledge or information after reasonable inquiry, the denial must describe the inquiry made and the results derived therefrom (to the extent that they are responsive to the request).
- (C) *Medical Examinations.* All medical examinations or re-examinations on behalf of the plaintiff or any defendant for purposes of testimony concerning the physical condition of the plaintiff shall be completed on or before the day that the case first appears in the top one hundred cases on the trial list. On or before the day that the case first appears in the top fifty (50) cases on the trial list, copies of the report of the examination shall be served upon counsel for all parties, in default of which the party who procured the examination may be precluded from introducing any testimony concerning it at trial.
- (D) *Deposition Deadline.* All depositions for discovery shall be completed on or before the day that the case first appears in the top twenty (20) cases on the trial list.
- (E) *Product Identification Witnesses.* When a case first appears in the top fifty (50) cases in the trial pool, counsel shall deliver to counsel for all other parties a list specifically identifying the defendants and the products of such defendants for which evidence of alleged liability will be offered at trial. Counsel for the plaintiff may reference a standard list of product identification witnesses filed under the General Asbestos Pleading Numbers, but shall narrow the list down to a reasonable number of witnesses for the particular case.
- (F) *Motions.* Any motion in limine or other motion or motion which may affect the conduct or the substance of the trial, including any question concerning the admissibility of any anticipated evidence or testimony, shall be filed in Motion Court under Philadelphia Civil Rule \*208.3(b)(3) for assignment to the Asbestos Motion Judge. However, motions in cases appearing in the top ten cases on the trial list, other than motions for summary judgment, shall be submitted to the Asbestos Calendar Judge at the weekly call of the list.
- (G) *Deposition Designations.* Counsel for all parties shall exchange written lists of deposition designations and counter designations in advance of trial. If a deposition was taken in some proceeding other than the case in which it is intended to be used, the designations shall

include the caption of the proceeding in which it was taken and shall specify each party against whom the deposition will be used. If less than an entire deposition is intended to be introduced at trial, the designation shall specify the pages and lines which will be offered into evidence.

- (H) *Trial Memoranda.* Trial memoranda, any memoranda of law dealing with anticipated legal issues, and preliminary requested points for charge may be submitted to the Trial Judge not later than at the commencement of the trial.

*Note:* Original order dated December 19, 1986 in In Re: Asbestos Litigation, October Term, 1986, Nos. 0001 and 0002; amended May 20, 2004, effective July 26, 2004.

#### **Rule \*4003.8** *Pre-Complaint Discovery.*

As authorized by Pa.R.C.P. Nos. 4003.8, a request for pre-complaint discovery, or an objection thereto, whether in the nature of discovery for preparation of pleadings (see Pa.R.C.P. No. 4001 (c)), or in the nature of written interrogatories and depositions for the purpose of preparing a complaint (see Pa.R.C.P. Nos. 4005(a) and 4007.1 (c)) must comply with all requirements of Non-Discovery Motions as set forth in Phila.Civ.R. \*208.3(b)(2).

*Explanatory Note:* Pa.R.C.P. No. 4003.8 authorizes pre-complaint discovery. In order to create a full record, requests for pre-complaint discovery as well as objections to precomplaint discovery commenced without court approval shall be drafted and assigned for disposition pursuant Phila.Civ.R. \*208.3(b)(2), the local rule which govern nondiscovery motions and not through the less formal discovery process set forth in Phila.Civ.R. \*208.3(a)(4).

Adopted by the Board of Judges of the Court of Common Pleas on May 15, 2008. Promulgated by Order dated May 20, 2008. Effective thirty (30) days after publication in the Pennsylvania Bulletin.

*Editor's Note:* Adopted July 3, 2008, effective 30 days after publication in the *Pennsylvania Bulletin*.

#### **Rule \*4005** *Standard Form Interrogatories.*

- (A) Standard interrogatories in personal injury and product liability cases in the forms hereinafter reproduced shall be utilized in the appropriate case.
- (A.1) Standard interrogatories in the forms hereinafter reproduced shall be utilized in the Compulsory Arbitration Program:
- (1) Plaintiff(s) Interrogatories Directed to Defendant(s)—Motor Vehicle Liability Cases;
  - (2) Defendant(s) Interrogatories Directed to Plaintiff(s)—Motor Vehicle Liability Cases;
  - (3) Plaintiff(s) Interrogatories Directed to Defendant(s)—Premises Liability Cases; and
  - (4) Defendant(s) Interrogatories Directed to Plaintiff(s)—Premises Liability Cases.

*Explanatory Note:* The adoption of subsection (A.1) supplants Trial Division Administrative Docket No. 2005-02 issued on April 8, 2005 by then Administrative Judge James J. Fitzgerald, III. The current Compulsory

Arbitration Program Standard Interrogatories have been drafted with the cooperation and assistance of the Philadelphia Bar Association's Rules and Procedure Committee and Arbitration Committee.

- (B) It is not required that all of said interrogatories be used in every case and it shall be the obligation of counsel to properly designate those to which answers are required.
- (C) Parties are not restricted to the standard interrogatories and may utilize additional or supplemental interrogatories where necessary and appropriate.
- (D) The Court will not entertain objections to the standard interrogatories and parties who file such objections will be subject to sanctions including imposition of counsel fees.
- (E) If answers are not timely filed, the procedure for compelling same shall be in accordance with the appropriate rules of Civil Procedure.
- (F) Any additional standard interrogatories adopted by this Court will be incorporated in this rule after notice to the Bar in *The Legal Intelligencer*.

*Note:* Former Rule 145; amended by The Board Of Judges, General Court Regulation 81-5, effective June 15, 1981.

*Editor's Note:* Standard Form Interrogatories under Former Rules 145, 145(A) and (B) have not been printed as they remain unchanged. See below. Administrative Docket 2005-02 may impact this rule.

#### STANDARD INTERROGATORIES

When a standard interrogatory uses the word: "identity," the party served with the interrogatory must identify all documents, things and persons known to that party or to that party's attorney, and the addresses of all persons identified MUST be set forth.

Where a standard interrogatory is marked with an asterisk(\*), a request for production may accompany the interrogatory.

Standard Interrogatory 1. *Injuries and Diseases Alleged.*

State in detail the injuries or diseases that you allege that you suffered as a result of the accident referred to in the complaint.

Answer:

Standard Interrogatory 2. *Medical Treatment and Reports.\**

If you received medical treatment or examinations (including X-rays) because of injuries or diseases you suffered as a result of the accident, identify:

- (a) Each hospital at which you were treated or examined;

Answer:

- (b) The dates on which each such treatment or examination at a hospital was rendered and the charges by the hospital for each;

Answer:

- (c) Each doctor or practitioner by whom you were treated or examined;

Answer:

- (d) The dates on which each such treatment or examination by a doctor or practitioner was rendered and the charges for each;

Answer:

- (e) All reports regarding any medical treatment or examinations, setting forth the author and date of such reports.

Answer:

Standard Interrogatory 3. *Other Expenses.\**

If you have incurred any bills or expenses in connection with the injuries or diseases which you suffered because of the accident referred to in the complaint, and such bills or expenses are not otherwise listed in answer to these interrogatories, set forth the amount of each such bill or expense, the service for which the bill or expense was incurred, and the identity of the person who rendered the bill or who was involved in the expense.

Answer:

Standard Interrogatory 4. *Prior or Subsequent Injuries or Diseases.*

Either prior to or subsequent to the accident referred to in the complaint, have you ever suffered any injuries or diseases in those portions of the body claimed by you to have been affected by the accident referred to in the complaint?

Answer:

If so, identify:

- (a) The injuries or diseases you suffered;

Answer:

- (b) The date and place of any accident, if such an injury or disease was caused by an accident;

Answer:

- (c) All hospitals, doctors or practitioners who rendered treatment or examinations because of any such injuries or diseases;

Answer:

- (d) Anyone against whom a claim was made, and the Court, term or number of any claim or lawsuit that was filed, in connection with any such injuries or diseases.

Answer:

Standard Interrogatory 5. *Earnings before the Accident.\**

For the period of three years immediately preceding the date of the accident referred to in the complaint, state:

- (a) The name and address of each of your employers or, if you were self-employed during that period, each of your business addresses and the name of the business while self-employed;

Answer:

- (b) The dates of commencement and termination of each of your periods of employment or self-employment;

Answer:

- (c) A detailed description of the nature of your occupation in each employment or self-employment;

Answer:

- (d) The amount of income from employment and self-employment for each year. (Attach your Federal income tax return for each year).

Answer:

Standard Interrogatory 6. *Earnings after the Accident.\**

If you have engaged in one or more gainful occupations subsequent to the date of the accident referred to in the complaint, state:

- (a) The name and address of each of your employers or, if you were self-employed, each of your business addresses and the name of the business while self-employed;

Answer:

- (b) The dates of commencement and termination of each of your periods of employment or self-employment;

Answer:

- (c) A detailed description of the nature of your occupation in each employment or self-employment;

Answer:

- (d) The wage, salary or rate of earnings received by you in each employment or self-employment. (Attach your Federal income tax return for each year subsequent to the accident);

Answer:

- (e) The dates of all absences from your occupation resulting from the injuries and diseases suffered in this accident. Set forth the amount of any earnings or other benefits lost by you because of such absences.

Answer:

Standard Interrogatory 7. *Limitation of Duties and Activities after the Accident.*

State whether, as a result of this accident, you have been unable to perform any of your customary occupational duties or social or other activities in the same manner as prior to the accident, stating with particularity (a) the duties and/or activities you have been unable to perform, (b) the periods of time you have been unable to perform, and (c) the names and last known addresses of all persons having knowledge thereof.

Answer:

Standard Interrogatory 8. *Witnesses and Those with Knowledge of the Accident.*

- (a) Identify each person who (1) was a witness to the accident through sight or hearing and/or (2) has knowledge of facts concerning the happening of the accident or

conditions or circumstances at the scene of the accident prior to, after, or at the time of the accident.

Answer:

- (b) With respect to each person identified in the answer to the interrogatory above, state that person's exact location and activity at the time of the accident.

Answer:

Standard Interrogatory 9. *Statements.*

Have you or anyone acting on your behalf obtained from any person any statement (as defined by the Rules of Civil Procedure) concerning this action or its subject matter?

Answer:

If so, identify:

- (a) Each such person;

Answer:

- (b) When, where, by whom and to whom each statement was made, and whether it was reduced to writing or otherwise recorded;

Answer:

- (c) Any person who has custody of any such statements that were reduced to writing or otherwise recorded.

Answer:

Standard Interrogatory 10. *Statements Made by Party to Whom Interrogatory is Addressed.\**

Have you given any statement (as defined by the Rules of Civil Procedure) concerning this action or its subject matter?

Answer:

If so, identify:

- (a) Each person to whom a statement was given;

Answer:

- (b) When and where each statement was given;

Answer:

- (c) Any person who has custody of any such statements that were reduced to writing or otherwise recorded.

Answer:

Standard Interrogatory 11. *Demonstrative Evidence.\**

Do you or anyone acting on your behalf know of the existence of any photographs, motion pictures, video recordings, maps, diagrams or models of the site of the accident, the parties or any other subject matter involved in this action?

Answer:

If the answer is in the affirmative, identify:

- (a) The date(s) when they were made and what they are;

Answer:

- (b) The name and address of the person making them;

Answer:

- (c) The subject that each represents or portrays.

Answer:

Standard Interrogatory 12. *Trial Preparation Material.*

Have you or anyone on your behalf conducted any investigations of the accident which is the subject matter of the complaint?

Answer:

If the answer is in the affirmative, identify:

- (a) Each person, and the employer of each person, who conducted any investigations;

Answer:

- (b) The dates of the investigations;

Answer:

- (c) All notes, reports or other documents prepared during or as a result of the investigations and the identity of the persons who have possession thereof.

Answer:

Standard Interrogatory 13. *Experts.\**

- (a) State the name and address of each person whom you expect to call as an expert witness at trial and state the subject matter on which the expert is expected to testify.

Answer:

- (b) For each such expert, have the expert state the substance of the facts and opinions to which the expert is expected to testify and summarize the grounds for each such opinion.

Answer:

- (c) Set forth the qualifications of each expert, listing the schools attended, years of attendance, degrees received, and experience in any particular field of specialization or expertise.

Answer:

Standard Interrogatory 14. *Insurance.*

- (a) State whether you are covered by any type of insurance, including any excess or umbrella insurance, in connection with this accident.

Answer:

If the answer is affirmative, state the following with respect to each policy:

- (b) The name of the insurance carrier which issued each policy of insurance;

Answer:

- (c) The named insured under each policy and the policy number;

Answer:

- (d) The type of each policy and the effective dates;

Answer:

- (e) The amount of coverage provided for injury to each person, for each occurrence, and in the aggregate for each policy;

Answer:

- (f) Each exclusion, if any, in the policy which is applicable to any claim thereunder and the reasons why you or the company claims the exclusion is applicable;

Answer:

- (g) Whether you have made a claim under the policy and if so, set forth the nature of the claim, the amount recovered and the date of recovery.

Answer:

#### STANDARD PRODUCT INTERROGATORIES

Where a product interrogatory is marked with an asterisk(\*), a request for production may accompany the interrogatory.

Product Interrogatory 1. *Documents of Sale and Ownership.\**

Identify all documents relating to the sale, possession, ownership or transfer of the product actually involved in the accident and the persons who have custody of those documents or copies thereof.

Product Interrogatory 2. *Identification and Purchase of Product.*

- (a) State the date on which the product actually involved in the accident was purchased or acquired by the person or company which owned it at the time of the accident.
- (b) State whether the product was purchased or acquired in a new or used condition.
- (c) State the names and addresses of all prior owners or possessors and give the dates of their ownership or possession.
- (d) State the name and address of the manufacturer and the date the product was manufactured and state the model and serial numbers or other designation of the product.

Product Interrogatory 3. *Warranties.\**

- (a) Identify every written warranty which is applicable to the product actually involved in the accident and any persons who have custody of such warranty or copy thereof.
- (b) Identify every warranty which is not in writing, stating the substance and dates thereof and the persons from whom and to whom given.

Product Interrogatory 4. *Product Literature.\**

Identify all instruction, operating, repair, maintenance, and safety manuals regarding the product actually involved in the accident and any other documents which describe the product and its use stating: titles, dates of publication, general

description and amendments thereto and identify the persons who have custody thereof.

Product Interrogatory 5. *Present Location of Product.*

State the present location of the product actually involved in the accident and identify the person who has custody thereof.

Product Interrogatory 6. *Repairs of the Product before the Accident.\**

With respect to the product actually involved in the accident, identify:

- (a) Every repair or replacement made to the product before the accident;
- (b) The names, addresses and employers of any person who made each repair or replacement;
- (c) The nature, purpose and date of each repair or replacement; and
- (d) Any document referring to each repair or replacement and the persons who have custody thereof.

Product Interrogatory 7. *Modification of the Product before the Accident.\**

With respect to the product actually involved in the accident, identify:

- (a) Every pre-accident alteration or addition made to the product after it left the possession of its manufacturer;
- (b) The names, addresses and employers of any person who made each alteration or addition;
- (c) The nature, purpose and date of each alteration or addition; and
- (d) Any document referring to each alteration or addition and the persons who have custody thereof.

Product Interrogatory 8. *Inspections before the Accident.\**

State whether there were any inspections or examinations of the product actually involved in the accident after its manufacture and before the accident. If so, state:

- (a) When any inspections or examinations were scheduled to be made and by whom;
- (b) The dates when any inspections or examinations were made and by whom;
- (c) Whether there is any documentation relating to the schedule or the inspections or examinations and, if so, identify such documentation;
- (d) Whether there were oral reports made with respect to any inspections or examinations and, if so, state the substance and dates thereof and the persons from whom and to whom given.

Product Interrogatory 9. *Complaints and Malfunctions before the Accident.\**

State whether, before the accident, there were any complaints or malfunctions regarding the product actually involved in the accident. If so, state:

- (a) The substance of any complaints or malfunctions;
- (b) The dates when any complaints or malfunctions occurred;
- (c) The name and address of the persons who made such complaints or experienced the malfunctions;
- (d) Whether the complaints or malfunctions are documented and the identification of the persons who prepared the documents; and
- (e) Whether there were any oral reports made as to any complaints or malfunctions.

Product Interrogatory 10. *Training and Instruction before the Accident.\**

Describe all training and instruction which you gave or received for the operation, use or maintenance of the product actually involved in the accident before the accident, including any classroom instruction or on the job training.

Product Interrogatory 11. *Tests.\**

Identify every test that has been made, before and after the accident, on the product actually involved in the accident.

Identify the persons who performed the tests, the dates on which they were performed and give a description of the tests, the purpose of the tests and the results.

Product Interrogatory 12. *Reports of Accident.\**

Identify all reports and other documents (except reports of experts consulted by you whom you do not intend to call at trial) which describe the happening of the accident or the cause thereof, giving the identification of the persons who prepared the reports or documents, the dates and the persons who have custody thereof.

Product Interrogatory 13. *Recalls, Recommendations and Warnings.*

Have you ever known of or received, published or distributed any (a) recalls or recommendations for repair or replacement, or (b) warnings with respect to the manufacture or usage of the product actually involved in the accident? If so, identify all such recalls, recommendations or warnings and any persons who have custody of any document referred to in your answer.

Product Interrogatory 14. *Alterations of the Product after the Accident.\**

With respect to the product actually involved in the accident, identify:

- (a) Every alteration or addition made to the product after the accident;
- (b) The names, addresses and employers of any person who authorized and made any alteration or addition;

- (c) The nature, purpose and date of each alteration or addition; and

- (d) Any document referring to any alteration or addition and the persons who have custody thereof.

Product Interrogatory 15. *Repairs to the Product after the Accident.\**

With respect to the product actually involved in the accident, identify:

- (a) Every repair or replacement made to the product after the accident;

- (b) The names, addresses and employers of any person who authorized and made any repair or replacement;

- (c) The nature, purpose and date of each repair or replacement; and

- (d) Any document referring to any repair or replacement and the persons who have custody thereof.

*Note:* Former Rule 145; amended by General Court Regulation 81-5; effective June 15, 1981.

#### STANDARD FORM INTERROGATORIES IN MEDICAL MALPRACTICE CASES

1. State:

- (a) Your full name
- (b) Any other names you have used or been known by
- (c) Your date and place of birth
- (d) Your marital status at the time of the incident
- (e) Your present marital status
- (f) Your present home address
- (g) Your social security no.

2. If you claim a permanent injury resulting from the treatment, surgery or examination upon which this action is based, describe such injury fully and in detail.

3. Were you ever in the Armed Forces? If so, state: The dates, branch of service, rank at discharge, whether you had any infirmities at discharge, whether you have any claim or are receiving benefits for any infirmities from said service, your Armed Forces service number, and your Veterans "C" number.

4. State the name and address of your family physician at the time of the treatment, surgery or examination upon which this action is based.

#### *Injuries and Diseases Alleged*

5. State in detail the injuries or diseases that you allege that you suffered as a result of treatment, surgery or examination upon which this action is based.

#### *Medical Treatment & Reports*

6. If you received medical treatment, tests, or examinations (including X-rays) because of injuries or diseases

you suffered as a result of the treatment, surgery, or examination referred to in the Complaint, state:

- (a) The name and address of each hospital at which you were treated or examined;
- (b) The dates on which each such treatment or examination at a hospital was rendered and the charges by the hospital for each;
- (c) The name and address of each doctor or practitioner by whom you were treated or examined;
- (d) The dates on which each such treatment or examination by a doctor or practitioner was rendered and the charges for each;
- (e) The identity of all reports regarding any medical treatment or examination, setting forth the author and date of such reports;
- (f) Please consider this as a Request to Produce copies of all reports referred to in the above answer.

*Prior to Subsequent Injuries or Diseases*

7. Either prior to or subsequent to the treatment, surgery or examination referred to in the Complaint, have you ever suffered any injuries, illness or diseases in those portions of the body claimed by you to have been affected by the treatment, surgery or examination referred to in the Complaint?

If so, state:

- (a) A description of the injuries or diseases you suffered;
- (b) The date and place of any accident, if such an injury or disease was caused by an accident;
- (c) The names and addresses of all hospitals, doctors or practitioners who rendered treatment or examinations because of any such injuries or diseases;

*Earnings before the Accident*

8. For the period of three years immediately preceding the date of the treatment, surgery or examination referred to in the Complaint, state:
  - (a) The name and address of each of your employers or, if you were self-employed during that period, each of your business addresses and the name of the business while self-employed.
  - (b) The dates of commencement and termination of each of your periods of employment or self-employment.
  - (c) A detailed description of the nature of your occupation and the services performed by you in each employment or self-employment.
  - (d) Your average weekly earnings from each employment or self-employment; the average number of hours worked by you per week in each employment or self-employment; and the amount of income from employment or self-employment reported on your Federal Income Tax Return for each year.

*Earnings after the Accident*

9. If you have engaged in one or more gainful occupations subsequent to the date of the treatment, surgery or examination referred to in the Complaint, state:
  - (a) The name and address of each of your employers or, if you were self-employed, each of your business addresses and the name of the business while self-employed.
  - (b) The dates of commencement and termination of each of your periods and employment or self-employment.
  - (c) A detailed description of the nature of your occupation and the services performed by you in each employment or self-employment.
  - (d) The wage, salary or rate of earnings received by you in each employment or self-employment and the amount of income reported on your Federal Income Tax Return for each year subsequent to the accident.
  - (e) The dates of all absences from your occupation, the reasons therefor and the amount of any earnings lost by you because of such absences.

*Limitation of Duties and Activities after the Treatment, Surgery or Examination*

10. State whether you, subsequent to the date of the treatment, surgery or examination, have been unable to perform adequately any of your customary occupational duties or social or other activities, stating with particularity (a) the duties and/or activities you have been unable to perform, and (b) the periods of time you have been unable to perform, and (c) the names and last known addresses of all persons who have personal knowledge thereof.

*Witnesses and Those with Knowledge of the Treatment, Surgery or Examination*

11. State the name and last known address of each person who (a) was a witness to the treatment, surgery or examination through sight or hearing and/or (b) has knowledge of facts concerning the happening of the treatment, surgery or examination or conditions or circumstances at the time of the treatment, surgery or examination prior to, after, or at the time of the accident, excepting those persons who acquired such knowledge during the course of this litigation.
12. With respect to each person identified in the answer to Interrogatory 1(a), state that person's exact location and activity at the time of the treatment, surgery or examination.

*Statements*

13. Have you or anyone acting on your behalf obtained from any person any statement concerning this action or its subject matter? If so, state:

- (a) The name and last known address of each such person;
- (b) When, where, by whom and to whom each statement was made, and whether it was reduced to writing or otherwise recorded.
- (c) The name and address of any person who has custody of any such statements that were reduced to writing or otherwise recorded.
- (d) Please consider this a Request to Produce those statements referred to in the above answer.

*Statement Made by Party to Whom Interrogatory is Addressed*

14. Have you given any statement concerning this action or its subject matter? If so, state:
- (a) The name and last known address of each person to whom a statement was given;
  - (b) When and where each statement was given.
  - (c) Please consider this a Request to Produce the statements referred to in the above answer.

*Photographs, Diagrams or Models*

15. Do you know of the existence of any photographs, diagrams or models of the surrounding area or the areas of the treatment, surgery or examination or any other matters or things involved in this treatment, surgery or examination.

If the answer is in the affirmative, state:

- (a) The date(s) when such photographs, diagrams or models were made;
- (b) The name and address of the party making them;
- (c) Where they were made;
- (d) The objects(s) or subjects(s) each photograph, diagram or model represents.
- (e) Please consider this a Request to Produce the photographs, diagrams and/or models referred to in the above answer.

*Trial Preparation Material*

16. (A) Have you, or anyone on your behalf, conducted any investigations of the treatment, surgery or examination which is the subject matter of the complaint? (B) If the answer to (A) is in the affirmative, state:
- (1) The name, address, and employer of all persons who conducted any investigations;
  - (2) The dates of the investigations, and
  - (3) The dates of any reports of any investigations and the identity of the persons who have possession thereof.
  - (4) Please consider this a Request to Produce your investigation reports, except those portions which are protected from discovery by Pennsylvania Rule of Civil Procedure 4003.3.

*Experts*

- 17.
- (a) State the name and address of each person whom you expect to call as expert witnesses at trial and state the subject matter on which the expert is expected to testify.
  - (b) For each such expert, state, or have the expert state, the substance of the facts and opinions to which the expert is expected to testify and summarize the grounds for each such opinion. (Expert's reports containing the same information may be attached in lieu of an answer).
  - (c) If the expert is employed and/or self-employed, identify the employer and the nature of employment thereof.
  - (d) Identify all documents submitted to the expert and all products and/or locales inspected by the expert in connection with preparations for his or her testimony.
  - (e) Set forth the qualifications of each expert, listing the schools attended, years of attendance, degrees received, experience in any particular field of specialization or expertise, all publications authored, including the title of the work and the book in which it was printed giving the date of publication.
18. State the specific facts known to you or anyone acting on your behalf upon which you base each claim of negligence or malpractice alleged in this action.
- 19.
- (a) Were the injuries you allege in this action caused in part by sickness, disease, abnormality or injury other than the injuries you claim resulted from the treatment, surgery or examination upon which this action is based.
  - (b) If so, state specifically the nature of each such sickness, disease, abnormality or injury and how each affected you.
  - (c) Are there any medical, X-rays, hospital or other reports which indicate the nature of each such sickness, disease or abnormality or injury and how each affected you.
  - (d) If so, where and when was each report made and what is the name and present or last known address of the person who made each such report and each such person who has custody or possession of each such report or any copy thereof?
  - (e) Have you been furnished any such information in any way other than by the documents referred to in this Interrogatory? If so, how, when, where and by whom?
20. Do you claim that an alleged agent of the defendant caused your injuries because:
- (a) He/She was not qualified to undertake the type of treatment, surgery or examination he gave?

- (b) He/She failed to diagnose correctly?
  - (c) He/She did not obtain proper consent or authorization?
  - (d) He/She did not maintain proper standards of hygiene or sterilization?
  - (e) He/She failed to use modern techniques and procedures?
  - (f) He/She did not give the correct treatment?
  - (g) He/She failed to observe proper pre-operative, operative or post-operative procedures, specifying which?
  - (h) He/She was otherwise negligent, specifying the nature of the negligence.
  - (i) Identify the alleged agent.
21. Do you claim that an individual defendant caused the injuries because:
- (a) He was not qualified to undertake the type of treatment, surgery or examination he gave?
  - (b) He/She failed to diagnose correctly?
  - (c) He/She did not obtain proper consent or authorization?
  - (d) He/She did not maintain proper standards of hygiene or sterilization?
  - (e) He/She failed to use modern techniques and procedures?
  - (f) He/She did not give the correct treatment?
  - (g) He/She failed to observe pre-operative, operative, or post-operative procedures, specifying which?
  - (h) He was otherwise negligent, specifying the nature of the negligence.

*Editor's Note:* Former Rule 145A, adopted by the Board of Judges, November 18, 1983, effective January 3, 1983. Amended November 14, 2014, effective February 17th, 2015.

**PLAINTIFF(S)' STANDARD FORM INTERROGATORIES  
TO DEFENDANT(S) IN MEDICAL CASES**

- I. *Addressed to the Hospital*
- 1. Identify each and every contract or other document establishing or otherwise referring to the relationship between \_\_\_\_\_ (Hospital) and \_\_\_\_\_ (Doctor), and/or document relating to the privileges granted by \_\_\_\_\_ (Hospital) to \_\_\_\_\_ (Doctor).
  - 2. Set forth the dates you had professional contact with the plaintiff.
    - (a) Please consider this a Request to Produce all records relating to said professional contact.
  - 3. State whether you were covered by or were the subject of any policy of liability insurance for the injuries arising out of the instant case.

- 4. If the answer to interrogatory #3 is in the affirmative, state the following as to each such policy of insurance:
  - (a) the name of each insured under the policy;
  - (b) the period of the policy;
  - (c) the amount of coverage provided by the policy for bodily injury liability for each person, for each occurrence and in the aggregate;
  - (d) the amount of coverage remaining for satisfaction of judgment in this case;
  - (e) the type of policy; and
  - (f) the name of the carrier by which the policy was issued.
- 5. If the answer to interrogatory #4 is in the affirmative, state whether any Exclusion under the policy is or may be applicable to any claim presented by plaintiff's Complaint.
- 6. If the answer to interrogatory #5 is in the affirmative, state the precise language of each Exclusion which is or may be applicable, and in summary form, the facts on the basis of which it is contended each such Exclusion is or may be applicable.
- 7. State whether this case is being defended by the attorney who has entered his or her appearance on your behalf subject to a reservation of rights agreement between you and your insurance carrier.
- 8. If the answer to interrogatory #7 is in the affirmative, as to each Reservation of Rights Agreement, state the following:
  - (a) the name of each party to the Agreement;
  - (b) the date the Agreement was entered into; and
  - (c) according to your information, what is the stated position of the carrier as to the Reservation of Rights? Answer only if informed consent is pleaded in the Complaint.
- 9. With respect to any conversations of which you are aware, in which the nature of, alternatives to and/or risks of the procedure in questions were discussed with the patient, set forth:
  - (a) the date(s) of each conversation;
  - (b) the substance of each conversation;
  - (c) the identity of each party to the conversation;
  - (d) the identity of each witness to the conversation; and
  - (e) were there any documents relating to the nature of, alternative to, and/or risk of the procedure presented to the patient? If so, please consider this a Request to Produce such document or documents.
- 10. State the name and last known address of each person who (a) was a witness to the treatment, surgery or examination through sight or hearing; and (b) has knowledge of facts concerning the happening of the treatment, surgery or examination or

- conditions or circumstances at the time of the treatment, surgery or examination prior to, after, or at time of the accident, excepting those persons who acquired such knowledge during the course of this litigation.
11. With respect to each person identified in the answer to interrogatory #10(a), state that person's exact location and activity at the time of the treatment, surgery or examination.
  12. Have you or anyone acting on your behalf obtained from any person any statement concerning this action or its subject matter? If so, state:
    - (a) the name and last known address of each such person;
    - (b) when, where, by whom and to whom each statement was made, and whether it was reduced to writing or otherwise recorded; and
    - (c) the name and address of any person who has custody of any such statements that were reduced to writing or otherwise recorded.
    - (d) Please consider this a Request to Produce those statements referred to in the above answer.
  13. Have you given any statement concerning this action or its subject matter? If so, state:
    - (a) the name and address of each person to whom a statement was given; and
    - (b) when and where each statement was given.
    - (c) Please consider this a Request to Produce the statements referred to in the above answer.
  14. Do you know of the existence of any photographs, diagrams or models of the surrounding area or the areas of the treatment, surgery or examination or any other matters or things involved in this treatment, surgery or examination?
  15. If the answer to interrogatory #14 is in the affirmative, state:
    - (a) the date(s) when such photographs, diagrams or models were made;
    - (b) the name and address of the party making them,
    - (c) where they were made; and
    - (d) the object(s) or subject(s) each photograph, diagram or model represents.
    - (e) Please consider this a Request to Produce the photographs, diagrams and/or models referred to in the above.
  16. Have you, or anyone on your behalf, conducted any investigations of the treatment, surgery or examination which is the subject matter of the complaint?
  17. If the answer to interrogatory #16 is in the affirmative, state:
    - (a) the name, address and employer of all persons who conducted any investigations;
    - (b) the dates of the investigations; and
    - (c) the dates of any reports of any investigations and the identity of the persons who have possession thereof.
    - (d) Please consider this a Request to Produce your investigation reports, except those portions which are protected from discovery by Pennsylvania Rule of Civil Procedure 4003.3.
  18. State the name and address of each person whom you expect to call as an expert witness at trial and state the subject matter on which the expert is expected to testify.
    - (a) For each such expert, state or have the expert state the substance of the facts and opinions to which the expert is expected to testify and summarize the grounds for each such opinion. (Expert's(s') reports containing the same information may be attached in lieu of an answer);
    - (b) if the expert is employed and/or self-employed, identify the employer and the nature of employment thereof;
    - (c) identify all documents submitted to the expert and all products and/or locales inspected by the expert in connection with preparations for his or her testimony; and
    - (d) set forth the qualifications of each expert, listing the schools attended, years of attendance, degrees received, experience in any particular field of specialization or expertise, all publications authored, including the title of the work and the book in which it was printed, giving the date of publication.
  19. If you deny you are negligent, set forth the facts that support the basis of your denial.
  20. Do you claim that plaintiff was contributorily or comparatively negligent and/or assumed the risk?
    - (a) If the answer to interrogatory #20 is in the affirmative, state the contentions of you or anyone acting on your behalf, upon which you base a claim of contributory or comparative negligence and/or assumption of risk.
  21. Identify each rule, regulation, guideline, instruction or other recommendation, manual, handbook, collection of orders or notices or other documents regarding the \_\_\_\_\_ (procedure) at \_\_\_\_\_ (hospital) in \_\_\_\_\_ (month, year of occurrence).
  22. For each of the above Interrogatories, please provide the name, address and position of the person who supplied the information in the foregoing Interrogatories.

II. *Addressed to the Doctor*

1. Set forth the following details regarding your medical education and preparation for practice:
  - (a) medical school(s) attended, dates of attendance and year of graduation;
  - (b) place and period of internship;
  - (c) nature of subjects covered during internship;
  - (d) names and specialties of physicians who trained you during internship;
  - (e) place and period of residency;
  - (f) subject of residency;
  - (g) names and specialties of physicians who trained you during residency;
  - (h) nature and period of any graduate studies and where they were pursued;
  - (i) inclusive dates of any armed forces service; and
  - (j) nature of armed forces service, including nature of any medical experiences.
2. Set forth the name of each medical organization with which you are affiliated or of which you are a member.
3. If you have ever been certified by any specialty board, or if you are now or have ever been a member of any specialty board, set forth the following:
  - (a) the name and address of each specialty board;
  - (b) the date you were certified or became a member; and
  - (c) if you are no longer certified or a member, give the date your certification or membership was terminated and the reason for the same.
4. Identify all publications, including but not limited to papers, journal articles, letters to the editor, textbooks, symposiums, etc., which you authored or contributed to, including the title of the work, the name of the periodical or book in which it was printed, the pages you wrote and the date of its printing.
5. Identify by author, title and year of publication, every textbook in (subject/specialty) which you had in your office from (relevant years).
6. Identify by author, title and year of publication, every textbook in (subject/specialty) which you regularly referred to and/or relied upon in the (relevant years).
7. Set forth the name of each medical journal you subscribed to in (relevant years).
8. Set forth the name of each medical journal you read regularly in (relevant years).
9. Identify each office, clinic or other location relating to the practice of medicine maintained by you, or in which you otherwise worked, subsequent to your internship or residency and set forth the inclusive dates you maintained each such location.
10. Set forth the names of all hospitals with which you were affiliated prior to (relevant years);
  - (a) with respect to each such hospital set forth your positions and responsibilities.
11. Set forth the names of all hospitals with which you are presently affiliated;
  - (a) with respect to each hospital set forth your position(s) and responsibilities.
12. Were you associated, or in partnership with any other medical practitioner at the time of the occurrences which are the subject of this action?
13. If so, state:
  - (a) the name, address, specialty and qualifications of each person with whom you were associated or in partnership;
  - (b) the nature of your business relationship to such person;
  - (c) the terms and conditions of the relationship;
  - (d) the date you formed the relationship;
  - (e) whether the relationship still exists, and if not, the reason and date it was terminated; and
  - (f) whether any written agreement existed between you and your associates or partners, and if so, the name and address of the person who has custody of the agreement.
14. Identify each and every contract or other document establishing or otherwise referring to the relationship between \_\_\_\_\_ (Hospital) to \_\_\_\_\_ (Doctor).
15. Set forth the dates you had professional contact with the plaintiff.
  - (a) Please consider this a Request to Produce all records relating to said professional contact.
16. State whether you were covered by or were the subject of any policy of liability insurance for the injuries arising out of the instant case.
17. If the answer to interrogatory #16 is in the affirmative, state the following as to each such policy of insurance:
  - (a) the name of each insured under the policy;
  - (b) the period of the policy;
  - (c) the amount of coverage provided by the policy for bodily injury liability for each person, for each occurrence and in the aggregated;
  - (d) the amount of coverage remaining for satisfaction of judgment in this case;
  - (e) the type of policy; and
  - (f) the name of the carrier by which the policy was issued.
18. If the answer to interrogatory #16 is in the affirmative, state whether any Exclusion under the policy is or may be applicable to any claim presented by plaintiff's Complaint.

19. If the answer to interrogatory # 18 is in the affirmative, state the precise language of each Exclusion which is or may be applicable, and in summary form, the facts on the basis of which it is contended each such Exclusion is or may be applicable.
20. State whether this case is being defended by the attorney who has entered his or her appearance on your behalf subject to a reservation of rights agreement between you and your insurance carrier.
21. If the answer to interrogatory #20 is in the affirmative, as to each Reservation of Rights Agreement, state the following:
  - (a) the name of each party to the Agreement;
  - (b) the date the Agreement was entered into; and
  - (c) according to your information, what is the stated position of the carrier as to the Reservation of Rights? Answer only if informed consent is pleaded in the Complaint.
22. With respect to any conversations of which you are aware, in which the nature of, alternatives to and/or risks of the procedure in question were discussed with the patient, set forth:
  - (a) the date(s) of each conversation;
  - (b) the substance of each conversation;
  - (c) the identity of each party to the conversation;
  - (d) the identity of each witness to the conversation; and
  - (e) were there any documents relating to the nature of, alternative to, and/or risk of the procedure presented to the patient? If so, please consider this a request to produce such document or documents.
23. Did you ever consult with any other physician in connection with the care and treatment of the patient? If so, set forth:
  - (a) the date(s) of the consultation;
  - (b) the identity of the physician;
  - (c) the subject matter of the consultation;
  - (d) action taken as a result of the consultation; and
  - (e) the identity of documents relating to the consultation.
  - (f) Please consider this a request to produce the documents referred to in (e).
24. State the name and last known address of each person who (a) was a witness to the treatment, surgery or examination through sight or hearing; and (b) has knowledge of facts concerning the happening of the treatment, surgery or examination or conditions or circumstances at the time of the treatment, surgery or examination prior to, after, or at time of the occurrence which is the subject of this suit, excepting those persons who acquired such knowledge during the course of this litigation.
25. With respect to each person identified in the answer to interrogatory #24(a), state that person's exact location and activity at the time of the treatment, surgery or examination.
26. Have you or anyone acting on your behalf obtained from any person any statement concerning this action or its subject matter? If so, state:
  - (a) the name and last known address of each such person;
  - (b) when, where, by whom and to whom each statement was made, and whether it was reduced to writing or otherwise recorded; and
  - (c) the name and address of any person who has custody of any such statements that were reduced to writing or otherwise recorded.
  - (d) Please consider this a Request to Produce those statements referred to in the above answer.
27. Have you given any statement concerning this action or its subject matter? If so, state:
  - (a) the name and address of each person to whom a statement was given; and
  - (b) when and where each statement was given.
  - (c) Please consider this a Request to Produce the statements referred to in the above answer.
28. Do you know of the existence of any photographs, diagrams or models of the surrounding area or the areas of the treatment, surgery or examination or any other matters or things involved in this treatment, surgery or examination?
29. If the answer to interrogatory #26 is in the affirmative, state:
  - (a) the date(s) when such photographs, diagrams or models were made;
  - (b) the name and address of the party making them;
  - (c) where they were made; and
  - (d) the object(s) or subject(s) each photograph, diagram or model represents.
  - (e) Please consider this a Request to Produce the photographs, diagrams and/or models referred to in the above.
30. Have you, or anyone on your behalf, conducted any investigations of the treatment, surgery or examination which is the subject matter of the complaint?
31. If the answer to interrogatory #28 is in the affirmative, state:
  - (a) the name, address and employer of all persons who conducted any investigations;
  - (b) the dates of the investigation; and
  - (c) the dates of any reports of any investigations and the identity of the persons who have possession thereof.
  - (d) Please consider this a Request to Produce your investigation reports, except those portions

which are protected from discovery by Pa.R.C.P. 4003.3.

- 32. State the name and address of each person whom you expect to call as an expert witness at trial and state the subject matter on which the expert is expected to testify.
  - (a) For each such expert, state or have the expert state the substance of the facts and opinions to which the expert is expected to testify and summarize the grounds for each such opinion. (Expert's(s') reports containing the same information may be attached in lieu of an answer);
  - (b) if the expert is employed and/or self-employed, identify the employer and the nature of employment thereof;
  - (c) identify all documents submitted to the expert and all products and/or locales inspected by the expert in connection with preparations for his or her testimony; and
  - (d) set forth the qualifications of each expert, listing the schools attended, years of attendance, degrees received, experience in any particular field of specialization or expertise, all publications authored, including the title of the work and the book in which it was printed giving the date of publication.
- 33. If you deny you are negligent, set forth the facts that support the basis of your denial.
- 34. Do you claim that plaintiff was contributorily or comparatively negligent and/or assumed the risk?
- 35. If the answer to interrogatory #32 is in the affirmative, state the contentions of you or anyone acting on your behalf, upon which you base a claim of contributory or comparative negligence and/or assumption of risk.

*Note:* Former Rule 145B, adopted, as General Court Regulation 84-1, effective January 5, 1984.

**Rule 4007.1 Problems Arising at Depositions.**

In the event a problem arises during the course of a deposition, counsel shall raise and summarize the disputed issue on the record at the deposition. Brief arguments may be placed on the record, and should consist of the reason for the dispute, an answer and a brief rebuttal. Counsel may present the disputed issue for disposition to team leader in Discovery Court; provided, however, if a firm trial or hearing date has been assigned, the issue may be presented in a motion in limine.

**See Forms Index**

*Editor's Note:* Former rule rescinded in its entirety, and new rule adopted March 3, 2000, effective 30 days after publication in the *Pennsylvania Bulletin*.

**Rule \*4009.11 Request Upon a Party for Production of Documents and Things. Compulsory Arbitration Program.**

Requests upon a party for production of documents and things in the forms hereinafter reproduced shall be utilized in the Compulsory Arbitration Program:

- (A) Plaintiff(s) Request for Production of Documents Directed to Defendant(s); and
- (B) Defendant(s) Request for Production of Documents Directed to Plaintiff(s).

**See Forms Index**

*Explanatory Note:* The adoption of this rule supplants Trial Division Administrative Docket No. 2005-02 issued on April 8, 2005 by then Administrative Judge James J. Fitzgerald, III. The current Compulsory Arbitration Program Requests Upon A Party for Production of Document and Things have been drafted with the cooperation and assistance of the Philadelphia Bar Association's Rules and Procedure Committee and Arbitration Committee.

*Editor's Note:* Adopted by the Board of Judges on November 20, 2014. Effective February 17, 2015.

**Rule \*4010 Physical or Mental Examination Reports.**

Copies of Physical or Mental Examination Reports of parties required to be made available to opposing parties under Pa.R.C.P. 4010(b) shall be served upon the examined party's attorney within twenty (20) days, and immediately upon receipt thereof. Said examined party's attorney shall deliver to the attorney or attorneys of the other party or parties, a copy of any written report made by the examined party's own physician.

*Note:* Former Rule 142; originally Star Rule \*4010, adopted June 1, 1962.

**Rule \*4015 Letters Rogatory.**

Letters rogatory in the following form may be issued on the application of either party:

**See Forms Index**

*Note:* Former Rule 143; originally Star Rule \*4015, adopted June 1, 1951.

**Rule \*4017.1 Objections at Videotape Depositions.**

The following shall govern the procedure for making objections during videotape depositions:

- (A) When counsel makes an objection, he or she shall merely state the word "objection" and request that the video operator stop the videotape. Any arguments on objections shall be made on the written transcript but off camera.
- (B) Once the video is stopped, counsel should first summarize the reasons for the objection in a word or phrase. Counsel may then proceed with argument on the

transcript and off the camera or may merely state the summary grounds for the objection. Arguments should be brief, and should consist of no more than the reason for the objection, an answer to the reason for the objection, and brief rebuttal.

- (C) Counsel shall review the transcript together before presentation to the Trial Judge to resolve whatever objections can be resolved. They should present to the judge a list by page and line of the objections that still need rulings.
- (D) Prior to the playing of the videotape, the Court shall advise the jurors of the procedure dealing with objections and instruct them to disregard the word “objection” when it is made. The videotape may then be played without interruption, except for segments stricken by the judge.

*Editor’s Note:* Adopted by the Board of Judges, General Court Regulation 90-2 effective February 1, 1990.

**Rule 4018.1 Record Reproduction Services Rule.<sup>2</sup>**

- (A) Records Reproduction Service(s) refers to all persons, partnerships, business organizations, corporations, or other entities that provide or offer to provide record reproduction services to attorneys, or parties in any proceeding in the Court of Common Pleas, Philadelphia County.
- (B) All persons or organizations providing record reproduction services to attorneys or parties in matters proceeding in the Court of Common Pleas, Philadelphia County, are required to comply with the following regulations governing certification, notices of the reproduction of records, methods and procedures for reproduction, notice to producing parties, examination of records, and provisions. Lawyers and law firms are required to comply with all regulations except certification.
- (C) All record reproduction services shall file an annual certification with the Office of Judicial Records on or before the first business day of January for the year in which record reproduction services are to be offered by the organization or entity. The form of certification shall be as follows:

*See Forms Index*

- (D)
- (1) The record reproduction service will give fifteen days notice to all parties before it serves a records reproduction subpoena or other notice or request upon the records custodian;

- (2) The notice shall be accompanied by a copy of the subpoena proposed to be served along with any other document to be served upon the record holder;
- (3) The notice or subpoena must give the records custodian at least ten days within which to produce the records;
- (4) An objection to this procedure may be sent to the records reproduction service and all parties within fifteen days of receipt of the notice. An objection noted on the counsel return card, that must be sent by the record reproduction service, or a letter objection is sufficient and no format protective motion need be filed.<sup>2</sup> Upon receipt of an objection, the record reproduction service shall refrain from any action contrary to the objection until receipt of a Court Order or further notice by the objecting party;
- (5) The notice shall identify the records, the custodian and the party who has made the request;
- (6) The notice and the counsel return card shall be in the forms shown in Appendices A and B stating that if the Return Card is not sent back to the record reproduction service or is returned stating no objection thereon, the subpoena shall be sent to the records custodian fifteen days from the date of the notice requesting that the records be produced on or before ten days thereafter. If a partial objection is stated on the Return Card, the records reproduction service shall proceed in a manner consistent with such objection.
- (7) The notice shall contain a per page price; if the total cost of a copy of the records will exceed \$100, the records reproduction service shall inform all counsel of the total cost and send a copy only to those counsel who approve the cost; and
- (8) Whenever the records of a non-represented party or a person who is not a party are requested, that party or person must be given notice at the same time it is given to counsel. The record holder under such circumstances shall be notified that there has not been agreement by all parties in view of the fact that it is the non-party’s records that have been requested. The non-represented party will also receive notice of the cost for a copy.
- (E) A records reproduction service shall not undertake to produce records in Court for evidence in a trial or a hearing unless specifically authorized to do so by the attorney who requests that the subpoena be served on the records custodian.
- (F) If the records have been produced and copied in compliance with this regulation, unless a letter objection is served on all parties within thirty days of receipt of copies of the records, the parties shall have been deemed to

**2. Rule 4018.1.**

The concept is that the record reproduction is an alternative to the formal filing. Accordingly, unless there is an agreement (by failure to send a letter objection or noting an objection on the card supplied), the record reproduction service will not make any attempt to secure records.

have waived any objection to the authenticity or genuineness of such records for the purpose of any trial or hearing in the case designated in the caption of the Notice of Records Reproduction Request except, however, there shall have been no waiver of any objection to admissibility in evidence.

- (G) Although each party obtaining copies of records will be required to pay for them, administrative fees charged by the record reproduction service for such items as processing the request for and procuring the records will be borne solely by the party initiating the record request. Every other party obtaining copies will be required to pay the expense of copying the records only.
- (H) The record reproduction service must make any records obtained by notice of deposition available for inspection by any party in a Center City office without charge whether or not that party has ordered a copy. The record reproduction service shall retain possession of the records or copies thereof only for a period that is reasonable to facilitate such inspection.
- (I) Where records are obtained by a record reproduction service, the service shall certify either that it has copied all records obtained from the Records Custodian or shall specify, to the extent possible, which records have not been copied.
- (J) To obtain records, the record reproduction service shall send to the Records Custodian a letter in the form of Appendix C and a record reproduction subpoena in the form of Appendix D. In completing the subpoena, the record reproduction service shall eliminate methods of production objected to by any party.
- (K) If any counsel objects to the records reproduction service obtaining the records without a formal disposition (option (a) on the Counsel Return Card), then the records reproduction service will notify all parties that it will not attempt to obtain copies of the records, and the service will refrain from making any request on the Custodian of the Records.
- (L) If any counsel objects to the Records Custodian mailing the original documents to the records reproduction service, (option (b) on the Counsel Return Card), then the service will notify the Records Custodian not to mail such original documents, and will obtain copies by alternative means.
- (M) If any counsel objects to the records reproduction service taking the records out of the custody of the Records Custodian (option (c) on the counsel Return Card), then they shall strike such method of reproduction from the records reproduction subpoena and will obtain copies by the alternative means.

*See Forms Index*

*Note:* Former Rule 390, adopted by The Board of Judges, General Court Regulation 83-3, effective January 1, 1984 (effective date amended to February 1, 1984 by General Court Regulation 83-3A).

**Rule \*4020.1**     *Testimony of Prisoners.*

Writs of habeas corpus to produce prisoners to testify in Court will not be granted, except in cases in which they are parties. In all other cases, and whenever their testimony is otherwise needed, their depositions shall be taken at the place of their imprisonment.

*Note:* Former Rule 226; originally Star Rule \*4021, amended June 1, 1951.

**Rule 5000.5**     *Requests for Transcripts.*

- (A) *Transcript Order Form.* The request for a transcript of all or part of the testimony at a trial or other proceeding must be made on a Transcript Order Form or Digital Recording Transcript Order Form which shall be substantially in the form set forth hereunder. The Transcript Order Forms must be fully completed and signed by the requesting party or counsel.
- (B) *Delivery Location.* The applicable Transcript Order Form must be faxed (at 215-683-8005) or delivered to the First Judicial District of Pennsylvania, Court Reporter and Interpreter Administration, Land Title Building, 100 South Broad Street, 2nd Floor, Philadelphia, PA 19110.
- (C) *Transcript Requests for Post-Verdict Motions and Appeals.* A copy of the applicable Transcript Order Form for requests made in connection with post-verdict motions and appeals to appellate courts shall also be:
  - (1) served on the trial judge; and (2) filed with the applicable office as follows:
    - (i) for all Criminal proceedings: The Criminal Justice Center, Motions Counter, Room 206, 1301 Filbert Street, Philadelphia, PA 19107; or
    - (ii) for all Court of Common Pleas Civil proceedings: The Office of Judicial Records, Room 278 City Hall, Philadelphia, PA 19107; or
    - (iii) for all Domestic Relations proceedings: The Clerk of Family Court, 1133 Chestnut Street, Philadelphia, PA 19107; or
    - (iv) for all Orphans' Court proceedings: The Clerk of the Orphans' Court, Room 415 City Hall, Philadelphia, PA 19107; or
    - (v) for all Juvenile Delinquency proceedings: The Clerk of Quarter Sessions, Room 336, 1801 Vine Street, Philadelphia, PA 19103; or
    - (vi) for Juvenile Dependency proceedings involving a decision made on a Petition for Goal Change/Involuntary Termination of Parental Rights: Room 269, City Hall, Philadelphia, PA 19107; or

- (vii) for all other Juvenile Dependency proceedings: The Criminal Justice Center, Motions Counter, Room 206, 1301 Filbert Street, Philadelphia, PA 19107; or
- (viii) for all Adoption proceedings: Room 332, 1801 Vine Street, Philadelphia, PA 19103; or
- (ix) for all Municipal Court Civil proceedings: 5th floor, 34 S. 11th Street, Philadelphia, PA 19107; or
- (x) for all appeals to an appellate court: The Office of Judicial Records of the applicable appellate court.

***See Forms Index***

**Editor's Note:** Submitted to the Board of Judges on May 18, 2006. Pending final approval.

**Editor's Note:** Adopted July 6, 2006, effective 30 days after publication in the *Pennsylvania Bulletin*.

**Rule 7107      *Mental Health Commitment Procedure.***

- (A) For all commitments under the Mental Health Procedures Act of 1976, the Court shall determine whether the patient shall be committed to a maximum security institution. In all cases where the Court determines that maximum security treatment is necessary, the defendant shall be committed to Fairview State Hospital, unless special circumstances warrant a commitment to a maximum security ward in another State hospital.
- (B) In general, the Court may not order that a commitment under the Act be served in a maximum security institution unless it finds that the patient's condition as of the date of the hearing therapeutically requires maximum security care. However, where the Court is independently empowered to impose a condition of incarceration on the patient under any criminal proceeding, the Court may order a commitment served in a maximum security institution without a finding of therapeutic necessity.
- (C) For those patients determined to be in no need of maximum security care, the Court shall commit the patient to the appropriate facility designated by the State Department of Public Welfare to serve the geographic area of the patient's residence. (Philadelphia patients are served by Norristown State Hospital and Philadelphia State Hospital.)

**Note:** Former Rule 70; adopted by the Board of Judges, originally General Court Regulation 72-2, January 19, 1972 and 72-2 Supplement, February 16, 1972, further amended June 24, 1977.

**Rule 7109      *Mental Health Review Officer.***

- (a) *Appointment.* The President Judge may, from time to time, appoint such Mental Health Review Officers as may be needed to effectuate the purposes of the Mental Health Procedures Act of 1976, as amended.

- (b) *Qualification of Mental Health Review Officer.* The Mental Health Review Officer shall be a member in good standing of the Bar of the Supreme Court of Pennsylvania and possess such other knowledge, expertise and experience as may be required by the President Judge.

- (c) *Venue.* The Philadelphia Court of Common Pleas, or the Mental Health Review Officer appointed pursuant to this rule, shall exercise jurisdiction in proceedings pursuant to the Mental Health Procedures Act of 1976, as amended, only in the following situations:

- (1) when the subject of the proceedings is or resides in Philadelphia County; or
- (2) when the subject of the proceedings has been subjected to involuntary treatment by another county and that county has determined that Philadelphia County is the county of the person's usual residence, and has transferred the case to Philadelphia County for further proceedings. In that case, the Philadelphia Court of Common Pleas, or Mental Health Review Officer appointed pursuant to this rule, may conduct legal proceedings at such locations as may be directed by the Court, including the facility where the person is in treatment, even if the facility is not located in Philadelphia County.

- (d) *Form of Applications, Petitions and Certifications.* All Applications, Petitions and Certifications filed pursuant to the Mental Health Procedures Act shall be on forms approved by the Department of Public Welfare. Provided, however, that the parties shall attach a cover sheet with all Applications, Petitions and Responses in the form set forth hereunder or as modified by the Court from time to time.

***See Forms Index***

- (e) *Application for Extended Involuntary Treatment Pursuant to Section 303 of the Act.*

- (1) *Applicant/Petitioner.* The County Mental Health Administrator, or the Director of the Facility in which the mentally ill person resides.
- (2) *Contents of Application/Petition.*
  - (A) grounds on which extended emergency medical treatment is believed to be necessary;
  - (B) the name of any examining physician and substance of his or her opinion regarding the mental condition of the person; and
  - (C) any other appropriate information.

- (3) *Filing and Service of Petition.* The Petition must be filed with the Office of Judicial Records within 120 hours of commencement of involuntary emergency treatment rendered pursuant to Section 302, and served by the Petitioner as soon as practicable on the person, his or her attorney, the City Solicitor and the Mental Health Review Officer.

- (4) *Scheduling of Conference.* An informal conference shall be listed within 24 hours after the application is filed, with Court intervention to occur within 120 hours of the commencement of involuntary emergency treatment rendered pursuant to Section 302.
- (5) *Conference.* At the informal conference, the person shall be informed of the nature of the proceedings, and the following information shall be considered by the Mental Health Review Officer:
- (A) Information relevant to whether the person is severely mentally disabled and in need of treatment, including the reasons that continued involuntary treatment is considered necessary;
- (B) Testimony from a physician who examined the person explaining in terms understandable to a layperson whether the person is severely mentally disabled and in need of treatment;
- (C) Information contained in, and appended to, the Application for Involuntary Emergency Examination and Treatment under Section 302; and
- (D) Any other information relevant to the issue of whether the person is severely mentally disabled and in need of treatment, even if such information is normally excludable under the rules of evidence, provided the information is found to be reliable.
- (6) *Decision.* At the conclusion of the conference, the Mental Health Review Officer shall either:
- (A) Certify that the person is severely mentally disabled and in need of continued involuntary treatment. The certification shall be filed with the Office of Judicial Records and served on the parties as required by Section 303(e) of the Act; or
- (B) Direct that the facility director or his designee discharge the person.
- (7) *Duration of Court-Ordered Involuntary Treatment.* A period not to exceed 20 days.
- (f) *Petition for Court-Ordered Involuntary Treatment Pursuant to Section 304 of the Act.*
- (1) *Persons Already Subject to Involuntary Treatment*
- (A) *Petitioner.* The County Mental Health Administrator, or the Director of the Facility in which the mentally ill person resides.
- (B) *Contents of Petition.*
- (i) facts constituting reasonable grounds to believe that the person is severely mentally disabled and in need of treatment;
- (ii) name of the examining physician and substance of the physician's opinion regarding mental condition of the person;
- (iii) allegation that the person has been provided with the information required by Section 304(b)(3); and
- (iv) any other relevant information.
- (C) *Filing and Service of the Petition.* The Petition must be filed with the Office of Judicial Records and served as required by Section 304(b)(3).
- (D) *Scheduling of Hearing.* A hearing shall be held not more than five days after the filing of the Petition.
- (E) *Continuation of Treatment Pending Hearing.* Treatment shall continue pending determination of Petition.
- (F) *Hearing.* The following information shall be considered by the Mental Health Review Officer:
- (i) Evidence re-establishing that the conduct originally required by Section 301 in fact occurred and that the person's condition continues to evidence a clear and present danger to himself or herself or others. It is not necessary to show the recurrence of dangerous conduct within the past 30 days;
- (ii) Information relevant to whether the person is severely mentally disabled and in need of treatment, including the reasons that continued involuntary treatment is considered necessary;
- (iii) Information contained in, or appended to, the Application for Involuntary Emergency Examination and Treatment under Section 302 or 303;
- (iv) Testimony by a physician who examined the person.
- (G) *Decision.* The Mental Health Review Officer shall render a decision within 48 hours after the close of evidence, and shall either:
- (i) find that the person is severely mentally disabled and in need of continued involuntary inpatient or outpatient treatment and issue an appropriate order as set forth in Section 304(f) of the Act; or
- (ii) deny the Petition and direct that the facility director or his designee discharge the person.
- (2) *Persons Not Already Subject to Involuntary Treatment*
- (A) *Petitioner.* Any responsible party.
- (B) *Contents of Petition.*
- (i) facts constituting reasonable grounds to believe that the person is severely mentally disabled and in need of treatment;
- (ii) name of the examining physician and substance of the physician's opinion regarding mental condition of the person; and
- (iii) any other appropriate information.
- (C) *Filing of Petition.* The Petition must be filed with the Office of Judicial Records.

- (D) *Scheduling of Hearing and Service of Petition.* Upon being satisfied that the Petition sets forth reasonable cause to believe that the person is within the criteria for court-ordered treatment as set forth in Section 304(a), the Court shall schedule a hearing, which may be conducted by a Mental Health Review Officer, and issue a summons or warrant to ensure the person's attendance at the hearing. The hearing shall be scheduled as soon as practicable, and the person must be served with a copy of the Petition and required notices at least three days before the scheduled hearing.
- (E) *Administration of Treatment Pending Hearing.* No treatment shall be authorized during the pendency of the Petition except in accordance with Sections 302 or 303 of the Act.
- (F) *Hearing.* The following information shall be considered by the Court or Mental Health Review Officer:
- (i) Information relevant to whether the person is severely mentally disabled and in need of treatment, including the reasons that involuntary treatment is considered necessary;
  - (ii) Testimony from a physician who examined the person explaining in terms understandable to a layperson whether the person is severely mentally disabled and in need of treatment; and
  - (iii) Any other information relevant to the issue of whether the person is severely mentally disabled and in need of treatment.
- (G) *Decision.* The Mental Health Review Officer, or Court, shall render a decision within 48 hours after the close of evidence, and shall either:
- (i) find that the person is severely mentally disabled and in need of involuntary inpatient or outpatient treatment and issue an appropriate order as set forth in Section 304(f) of the Act; or
  - (ii) deny the Petition.
- (3) *Duration of Court-Ordered Involuntary Treatment.*
- (A) A period not to exceed 90 days under Section 304(g)(1) of the Act; or
  - (B) A period not to exceed one year under Section 304(g)(2) of the Act, subject to the provisions of Section 304(g)(4) as to termination or continuance of involuntary treatment.
- (g) *Application for Additional Periods of Court-Ordered Involuntary Treatment Pursuant to Section 305 of the Act.*
- (1) *Applicant.* The County Mental Health Administrator, or the Director of the Facility in which the mentally ill person resides.
  - (2) *Contents of Petition.*
    - (A) facts constituting reasonable grounds to believe that the person is severely mentally disabled and in need of treatment;
    - (B) name of the examining physician and substance of the physician's opinion regarding mental condition of the person;
    - (C) allegation that the person has been provided with the information required by Section 304(b)(3); and
    - (D) any other appropriate information.
  - (3) *Filing and Service of Petition.* The Petition must be filed with the Office of Judicial Records and served as required by Section 304(b)(3).
  - (4) *Scheduling of Hearing.* A hearing shall be held no more than five days after the filing of the Petition.
  - (5) *Continuation of Treatment Pending Hearing.* Treatment shall continue pending determination of the Petition.
  - (6) *Hearing.* The following information shall be considered by the Mental Health Review Officer:
    - (A) Information contained in, or appended to, the Application for Involuntary Emergency Examination and Treatment under Section 302, 303 or 304;
    - (B) Testimony by a physician who examined the person;
    - (C) Information relevant to the reasons that continued involuntary treatment is considered necessary, as shown by conduct during the person's most recent period of court-ordered treatment; and
    - (D) Any other information relevant to the issue of whether the person is severely mentally disabled and in need of treatment.
  - (7) *Decision.* The Mental Health Review Officer shall render a decision within 48 hours after the close of evidence, and shall either:
    - (A) find that the person is severely mentally disabled and in need of continued involuntary inpatient or outpatient treatment, as shown by conduct during the person's most recent period of court-ordered treatment; and issue an appropriate order as set forth in Section 305 of the Act; or
    - (B) deny the petition and direct that the facility director or his designee discharge the person.
  - (8) *Duration of Court-Ordered Involuntary Treatment.*
    - (A) A period not to exceed 180 days; or
    - (B) A period not to exceed one year if the person meets the criteria of Section 304(g)(2) of the Act.
  - (h) *Transfer of Persons in Involuntary Treatment.*
    - (1) Except as provided hereunder, any person in involuntary treatment may be transferred to any approved facility.

- (2) Exceptions:
  - (A) persons committed pursuant to Section 304(g) (2) of the Act may not be transferred, in the absence of an emergency, unless written notice is given to the committing Judge or Mental Health Review Officer, and district attorney in the committing county and neither has objected to the transfer within 20 days of receipt of said notice. In the event an objection is received, the Mental Health Review Officer shall hold a hearing within 20 days to review the commitment transfer and shall render a decision within 48 hours of the close of evidence; and
  - (B) transfers which constitute a greater restraint cannot be accomplished unless before the expiration of the period of involuntary treatment a petition is filed as provided in this rule and the Mental Health Review Officer, after a hearing, finds the transfer to be necessary and appropriate.
- (i) *Review of Mental Health Review Officer Certifications or Decisions.*
  - (1) *Judicial Review and Assignment.* Certifications of the Mental Health Review Officers, pursuant to Section 303 of the Act, and decisions of the Mental Health Review Officers pursuant to Sections 304, 305 and 306 of the Act are subject to Judicial review through the filing, by any party, of a Petition for Review with the Office of Judicial Records of the Court of Common Pleas. Said Petitions shall be assigned to such Court of Common Pleas Judges (“Review Judge”), assigned to any Division of the Court, as may be determined by the President Judge from time to time.
  - (2) *Scheduling of Hearing and Service.* A hearing must be scheduled and held within 72 hours after the Petition is filed unless a continuance is requested by the person’s counsel. The party filing the Petition for Review must forthwith serve a copy of the Petition and Notice of Hearing on the Mental Health Review Officer and all other interested parties. Service may be effectuated by hand-delivery or via facsimile.
  - (3) *Preparation of Record for the Court.* The Mental Health Review Officer shall produce the record of the proceedings held by the Mental Health Review Officer to the Review Judge no later than the hearing date, and shall ensure that the evidence relied upon by the Mental Health Review Officer is available to the Review Judge.
  - (4) *Hearing.* The Review Judge shall review the certification of the Mental Health Review Officer and shall consider such other evidence as the Review Judge may receive or require.
  - (5) *Decision.* The Review Judge shall render a decision as soon as practicable, and, unless all parties agree

to a remand to the Mental Health Review Office, shall either:

- (A) determine that the person is in need of involuntary treatment and that the procedures prescribed by the Mental Health Procedures Act have been followed; or
  - (B) determine that the procedures prescribed by the Mental Health Procedures Act have not been followed, or that the person is not in need of involuntary treatment, and, if appropriate, shall direct that the facility director or his designee discharge the person. The decision of the Review Judge as set forth above is subject to appellate review as provided by rules of court.
- (j) *Record of Proceedings.* Record of the proceedings (which need not be in a stenographic format) held pursuant to the Mental Health Procedures Act shall be made, impounded by the Court as provided in the Act, and kept by the Office of Judicial Records for at least one year.
  - (k) *Appointment of Counsel.* The President Judge, or his designee, shall appoint counsel to represent all persons who may be subject to involuntary medical examination and treatment, unless it appears that any such person can afford, and desires to have, private representation.

**Explanatory Note:** The Mental Health Procedures Act, as enacted on July 9, 1976, authorized the local courts to decide whether a judge of the Court of Common Pleas or a “Mental Health Review Officer” would conduct legal proceedings under the Act. Section 109 specifically provided that a Mental Health Review Officer could, if authorized by the Court, conduct proceedings under Section 303(c), which dealt with extended involuntary emergency treatment, and under Section 304, which dealt with court-ordered involuntary treatment. However, the Act did not specifically address the issue of whether the Mental Health Review Officer could issue orders for treatment or whether such orders were deemed to be final orders which were subject to appellate review.

In the case of *In re Chambers*, 282 Pa. Super. 327, 422 A.2d 1140 (1980), the Superior Court addressed the difference between “certifications” issued pursuant to Section 303 and “orders” issued pursuant to Section 304. The Superior Court found that Section 303 specifically authorized the Mental Health Review Officer to certify, without judicial approval, a person for extended involuntary emergency treatment for a period not to exceed 20 days, noting that under Section 303 the person made subject to such involuntary emergency treatment had the right to petition the Court of Common Pleas for review of the certification. However, the Superior Court found that the procedure for Section 304 proceedings was different, in that Section 304 required the entry of an “order” involuntarily committing a person, and since the Mental Health Review Officer is not a judge, the Mental Health Review Officer cannot enter a “final order” which is appealable to the Superior Court. Thus, the Superior Court concluded that a commitment “order” issued pursuant to Section 304 by a Mental Health Review Officer on August 28, 1978 was not a “final order” and accordingly, not ripe for appellate review, and remanded to the Court of Common Pleas with directions to enter a final appealable order. See also *In re Bishop*, 282 Pa. Super. 67, 422 A.2d 831 (1980).

The Mental Health Procedures Act was amended by Act of November 26, 1978, P.L. No. 1362, No. 324, effective in 60 days. This amendment, inter alia, expanded the scope of the Mental Health Review Officer’s authority by authorizing the Mental Health Review Officer to conduct hearings concerning extended involuntary emergency treatment under Section 303(c), court-ordered involuntary treatment under Section 304 and 305, or transfer hearings under Section 306. More importantly, a new section was added, Section 109(b), which specifically provides, as did Section 303(g), that per-

sons made subject to treatment by Mental Health Review Officers have a right to petition the Court of Common Pleas for review of such ordered treatment. Thus, under the 1978 amendments, providing that the Court of Common Pleas authorized Mental Health Review Officers to conduct proceedings under Sections 303(c), 304, 305 and 306, they may require involuntary treatment, further provided that the persons subject to such treatment may file a petition for review with the Court of Common Pleas which will enter a final appealable order. The instant Rule constitutes authorization to Mental Health Review Officers to conduct proceedings under the Mental Health Procedures Act, as amended, and sets forth the procedure to be followed so as to clarify the rights of the persons affected.

**Editor's Note:** Old rule rescinded and new rule adopted May 23, 1997, effective July 1, 1997. Amended by President Judge General Court Regulation No. 97-02 on August 8, 1997, (adopted by the Board of Judges on September 25, 1997) effective immediately. Administrative Docket No. 001 of 1997, Administrative Order No. 003 of 1997, and Administrative Docket No. 001 of 2000 may impact this rule.

**Rule 7109.1      *Electronic Filing of Mental Health Applications or Petitions.***

(1) *General Rule.*

(A) Except as otherwise provided by subsection (B) of this rule, parties shall file legal papers, including original process, with the Office of Judicial Records by means of electronic filing in any civil mental health matter filed pursuant to the Mental Health Procedures Act of 1976, as amended, and the within rule.

(B) Notwithstanding subsection (A), appeals to appellate courts filed from orders issued by the Court pursuant to Petitions for Review of certification orders issued by Mental Health Review Officers cannot be filed electronically, but must be filed with the Office of Judicial Records in a paper format.

(C) The filing party shall maintain the original paper copy of any legal paper that is electronically filed and shall file the original with the Office of Judicial Records if requested pursuant to Pa.R.C.P. No. 205.4(b)(2) (ii).

(D) The Office of Judicial Records shall not maintain a paper file of any legal papers filed electronically pursuant to this rule.

(2) *File Date. Acceptance By Office of Judicial Records.* The Office of Judicial Records shall provide electronic access at all times; however, legal papers submitted electronically shall be deemed "filed" after they are reviewed and accepted by the Office of Judicial Records. Electronically filed document will be reviewed and accepted for filing during normal business hours only. The Office of Judicial Records shall electronically provide a filing status message to the filing party setting forth the "filed" date and time.

**Note:** A filing party accepts the risk that a document filed by means of electronic filing may not be properly or timely filed with the Office of Judicial Records. See Pa.R.C.P. No. 205.4(e)(2).

(3) *Scheduling of Hearing.* Upon filing of the application or petition, a hearing shall be scheduled consistent with the dictates of the Mental Health Procedures Act.

(4) *Service of Pleading and Scheduling Order.* After the application or petition is verified and accepted and a hearing date scheduled, the Office of Judicial Records shall notify all parties that the application was filed and is available, and further that a scheduling order was entered. This notification shall constitute service of the application or petition on all parties, and service of the scheduling order as required by Pa.R.C.P. No. 236.

(5) *Orders.* Upon conclusion of the hearing, the Mental Health Review Officer shall enter an appropriate order electronically. An electronic copy of the order shall be e-mailed or made available electronically to all parties through the Mental Health Electronic Filing System. Participation in the Electronic Filing System and the electronic availability of the orders as provided herein shall constitute compliance with Pa.R.C.P. No. 236.

(6) *Website.* The Office of Judicial Records web site, and the Mental Health System, may be found at the following website address: <http://courts.phila.gov>, or at such other site as may be designated from time to time. The Office of Judicial Records shall provide electronic access at all times; however, the electronically filed document will be reviewed and accepted for filing during normal business hours only. The time and date of the filing and receipt shall be as set forth above.

(7) *Authorized Users.* The Civil Mental Health Electronic Filing System shall be accessible to attorneys and other parties with the prior approval of the Office of Judicial Records. An appropriate user name and password will be provided, and specific software may also be required.

(8) *Fees.* The Office of Judicial Records shall impose an automation fee of \$5.00 per Mental Health Application or Petition filed, together with any other requisite filing fees. All Petitions and Applications not filed with the Office of Judicial Records electronically after the implementation date of this rule shall be subject to both the automation fee and the requisite filing fee. The President Judge may waive all or any portion of the filing fee and automation fee. The funds generated by the automation fee shall be set aside by the Office of Judicial Records and remitted monthly to the First Judicial District's Procurement Unit, and shall be used for, but not limited to, the development, training, implementation and maintenance of the electronic filing system for the Philadelphia Court of Common Pleas. The procedure for payment of the fees and costs of the Office of Judicial Records shall be set forth on the Office of Judicial Records's web site.

**Editor's Note:** Adopted November 16, 2001, effective January 1, 2002.

